

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF TEXAS
3 SHERMAN DIVISION

4 UNITED STATES OF AMERICA | DOCKET 4:20-CR-318
5 |
6 VS. | SEPTEMBER 30, 2022
7 | 9:00 A.M.
8 |
9 KEITH TODD ASHLEY | SHERMAN, TEXAS

10 -----
11
12 VOLUME 5 OF 8, PAGES 1101 THROUGH 1384

13 REPORTER'S TRANSCRIPT OF JURY TRIAL

14 BEFORE THE HONORABLE AMOS L. MAZZANT, III,
15 UNITED STATES DISTRICT JUDGE, AND A JURY
16 -----

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1	<u>INDEX</u>	
2		
3		<u>PAGE</u>
4	BRANDON BONNER	
5	CONTINUED DIRECT EXAMINATION BY MR. FINE	1108
6	CROSS-EXAMINATION BY MR. WHALEN	1156
7	REDIRECT EXAMINATION BY MR. FINE	1211
8	RECROSS-EXAMINATION BY MR. WHALEN	1218
9	FURTHER REDIRECT EXAMINATION BY MR. FINE	1222
10	HEIDI SCARBROUGH	
11	DIRECT EXAMINATION BY MS. RATTAN	1223
12	CROSS-EXAMINATION BY MR. SANDEL	1240
13	STACEY HAIL	
14	DIRECT EXAMINATION BY MR. COMBS	1248
15	CROSS-EXAMINATION BY MR. SANDEL	1266
16	REDIRECT EXAMINATION BY MR. COMBS	1274
17	RECROSS-EXAMINATION BY MR. SANDEL	1276
18	CARLA DENEUI-SIMONSEN	
19	DIRECT EXAMINATION BY MS. RATTAN	1278
20	CROSS-EXAMINATION BY MR. WHALEN	1283
21	REDIRECT EXAMINATION BY MS. RATTAN	1285
22	SAMANTHA LARSEN	
23	DIRECT EXAMINATION BY MS. RATTAN	1286
24	CROSS-EXAMINATION BY MR. WHALEN	1290
25	COURTNEY JACOBSON	
26	DIRECT EXAMINATION BY MS. RATTAN	1292
27	CROSS-EXAMINATION BY MR. WHALEN	1302
28	REDIRECT EXAMINATION BY MS. RATTAN	1311
29	MELINDA MONTELONGO MONCADA	
30	DIRECT EXAMINATION BY MS. RATTAN	1313
31	CROSS-EXAMINATION BY MR. SANDEL	1323
32	REDIRECT EXAMINATION BY MS. RATTAN	1326
33	CINDY NORDQUIST	
34	DIRECT EXAMINATION BY MS. RATTAN	1330
35	CROSS-EXAMINATION BY MR. WHALEN	1344
36	ARTHUR HILSON	
37	DIRECT EXAMINATION BY MS. RATTAN	1350
38	CROSS-EXAMINATION BY MR. SANDEL	1362

1	JASON RENNIE	
2	DIRECT EXAMINATION BY MS. RATTAN	1366
3	COURT REPORTER'S CERTIFICATION	1384
4		
5		
6		
7	<u>INDEX OF EXHIBITS</u>	
8		<u>PAGE</u>
9	Government's Exhibit 86	1110
10	Government's Exhibit 128B	1111
11	Government's Exhibit 94A	1114
12	Government's Exhibit 94C	1115
13	Government's Exhibit 123A	1126
14	Government's Exhibit 109	1127
15	Government's Exhibit 113	1129
16	Government's Exhibit 110	1130
17	Government's Exhibit 114	1137
18	Government's Exhibit 79	1163
19	Government's Exhibit 112A	1176
20	Government's Exhibit 122	1176
21	Government's Exhibit 114	1197
22	Government's Exhibit 127B	1216
23	Government's Exhibit 14B	1229
24	Government's Exhibit 127B	1257
25	Government's Exhibit 98	1259

1	Government's Exhibit 105	1279
2	Government's Exhibit 106	1280
3	Government's Exhibits 107 and 108	1287
4	Government's Exhibit 118A	1293
5	Government's Exhibit 118C	1301
6	Government's Exhibit 118A	1307
7	Government's Exhibit 109	1316
8	Government's Exhibit 118A	1320
9	Government's Exhibit 119A and 119B	1336
10	Government's Exhibit 118C	1339
11	Government's Exhibit 118A	1341
12	Government's Exhibit 118C	1342
13	Government's Exhibit 118A	1346
14	Government's Exhibit 10	1365
15	Government's Exhibit 25	1368
16	Government's Exhibit 10	1371
17	Government's Exhibit 7A	1372
18	Government's Exhibit 8A	1373
19	Government's Exhibit 104	1375
20	Government's Exhibit 133	1380

21
22
23
24
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1 (Open court, defendant present, jury not present.)

2 THE COURT: I understand there is a quick issue to
3 be taken up?

4 Everyone can be seated.

5 MR. COMBS: Thank you, your Honor.

6 We previously notified the Court and the defense
7 that we have an expert testifying, we expect to testify
8 this morning, Dr. Stacey Hail; and with leave of the Court,
9 we would like to have her present during the remainder of
10 testimony until she testifies. Defense, my understanding
11 is, does not object.

12 MR. WHALEN: We don't object. That's proper, your
13 Honor.

14 THE COURT: Yeah, experts are excused from the
15 rule so --

16 MR. COMBS: Thank you.

17 THE COURT: Okay. Anything else?

18 MS. RATTAN: One other issue is Government's
19 Exhibit 123A. 123A. It's a letter that was recovered
20 among the defendant's personal effects; and it's a letter
21 from a lawyer to the defendant, Keith Ashley, outlining the
22 lawyer's concern that the lawyer's client's funds are
23 missing. And we are offering that.

24 MR. WHALEN: We would object to that because
25 that's hearsay and it denies him the right of

1 confrontation.

2 MS. RATTAN: Of course, it was found in a search
3 of the defendant's personal property; and it's an
4 indication of the stress that the defendant was under
5 during this time period.

6 Additionally, it's intrinsic to the events that
7 are taking place in this case. The letter is dated
8 April of 2020.

9 And it's not offered for the truth of the matter
10 asserted. It's offered to demonstrate that the defendant
11 would have been under stress because he was receiving
12 letters like this requesting accounting for money.

13 MR. WHALEN: And it's also related to unnamed --
14 potential victims not named in the Indictment, so we would
15 object to that as well under 404(b) and 403 and --

16 THE COURT: Well, that would be -- that would
17 certainly be intrinsic, whether or not that victim -- or
18 alleged victim is in the endeavor or not.

19 So I agree with the government. I'll overrule the
20 objection. 123A will be admitted.

21 MR. WHALEN: Are you admitting it for the -- over
22 the hearsay objection because it goes to -- it's relevant
23 for that?

24 Are you going to give the jury an instruction for
25 the limitation it's being admitted for?

1 THE COURT: If you want me to give a limiting
2 instruction, that's fine. The question is what do you want
3 me to say in the limiting --

4 How do you want me to say that, Ms. Rattan, so
5 they know the purpose?

6 MS. RATTAN: It's being admitted to show the state
7 of mind of the defendant.

8 THE COURT: Okay. That's fine. And are you going
9 to be using this with a witness?

10 MS. RATTAN: We will, your Honor.

11 THE COURT: Okay.

12 MS. RATTAN: It was found by Carrollton Police
13 Department.

14 THE COURT: No, I understand. So when you go to
15 do that, you can offer the exhibit at that time and --

16 You don't have to make your -- you don't have to
17 make all of your objection, and I'll just -- I'll give that
18 limiting instruction.

19 MR. WHALEN: Okay. And I just want to make it
20 really clear for the record. We're also having a
21 confrontation clause issue objection to the paperwork
22 because we can't cross-examine, one, the lawyer who is
23 basing it on hearsay from his client; and then we would
24 have a right to confront Ms. Dietrick. And so it's like
25 double hearsay; and it violates the confrontation clause,

1 your Honor.

2 THE COURT: I understand. I don't think that it
3 does.

4 Ms. Rattan, do you have any problem with the
5 confrontation clause here? I don't think that --

6 MS. RATTAN: I don't -- I don't think that's an
7 issue.

8 THE COURT: I don't think so, either.

9 Okay. Let's bring the jury in.

10 (The jury enters the courtroom, 9:04 a.m.)

11 THE COURT: Please be seated.

12 Ladies and gentlemen, welcome back.

13 Officer, you understand you're still under oath?

14 THE WITNESS: Yes, sir.

15 THE COURT: Okay. Go ahead and continue.

16 MR. FINE: Thank you, your Honor.

17 CONTINUED DIRECT EXAMINATION OF BRANDON BONNER

18 BY MR. FINE:

19 Q. Good morning, Detective Bonner.

20 For the record, you still the Detective Bonner
21 that testified yesterday afternoon?

22 A. Yes, sir, I am.

23 Q. Still under oath?

24 A. Yes, sir, I am.

25 Q. Still swear to tell the truth, correct?

1 A. I do.

2 Q. All right. Let's start out this morning kind of going
3 back. We looked at some magnets this morning in terms of
4 some of the things we went over yesterday in your
5 testimony. Is that fair to say?

6 A. Yes, sir.

7 Q. And were they accurate in terms of your testimony that
8 you expressed to the jury yesterday?

9 A. Yes, sir.

10 Q. All right. So on February 19th, 2020, we know that
11 James Seegan had an appointment in his iCalendar,
12 9:00 a.m., "Keith blood," correct?

13 A. That is correct.

14 Q. And we know at 9:31 a.m., based on the doorbell camera,
15 that the defendant arrived to Jim Seegan's house, correct?

16 A. That is correct.

17 Q. We know his last step was logged at 9:33 and
18 41 seconds.

19 A. Yes, sir.

20 Q. And we know that at 10:15 in the morning, the garage
21 camera activated with a loud noise.

22 A. Yes, sir.

23 Q. And you later did a re-creation where the only noise
24 that popped that camera back on was the gunshot, correct?

25 A. Yes, sir.

1 Q. And then at 10:17 that document was printed, and we're
2 going to take a look at that again in a moment. Correct?

3 A. Yes, sir.

4 Q. And at 10:21 a.m. Keith Ashley left the home.

5 A. Correct.

6 Q. Came back at 10:37 a.m. This time he did not have that
7 backpack on that he had the first time in.

8 A. That's correct.

9 Q. So then he left the home again at 10:40; is that
10 correct?

11 A. That is correct.

12 Q. All right.

13 MR. FINE: Permission to approach the witness,
14 your Honor?

15 THE COURT: Yes.

16 MR. FINE: And permission for the witness to step
17 down?

18 THE COURT: Yes, we just need a lapel mic.

19 MR. FINE: And permission to publish
20 Government's 86 and 128B to the jury?

21 THE COURT: Go ahead.

22 MR. FINE: Thank you, your Honor.

23 BY MR. FINE:

24 Q. All right, Detective Bonner, if you'd step down here.
25 We've got Government's 86 and 128B. Government's 86 was

1 the purported suicide letter from Jim Seegan, correct?

2 A. Yes, sir.

3 Q. And yesterday you stated that based on your
4 investigation, interviews with family, friends, it didn't
5 seem like this is a letter that Jim Seegan would have
6 written; is that correct?

7 A. That is correct.

8 Q. And we talked about how you ended up performing an
9 extraction on the defendant's cell phone as well. Within
10 that extraction and on the defendant's cell phone in the
11 Notes section, did you find 128B?

12 A. We did.

13 Q. And so in terms of 128B, you took a look at that as
14 well?

15 A. Yes, sir.

16 Q. And did you find some similarities in the grammar and
17 some spelling errors, syntax, things like that between 86
18 and 128B?

19 A. Yes, sir, we did.

20 Q. And if you would go ahead and point out a few of those
21 things to the jury. Some have been circled in red,
22 underlined in red. If you'd go ahead and do that, please.

23 A. Sure. One of the things we noticed, in the opening of
24 someone's name, when they were leading, there would not be
25 a common that would be commonly placed behind the name. We

1 noticed that here as well as when he's addressing his
2 children in this note, no comma behind the name there.

3 Also the opening statement was, "I have been
4 struggling for a while." And then over here, "I have been
5 praying." We noticed just, again, kind of common language
6 use there.

7 The tense in some of the words. This one here,
8 "My dad dies years ago." And then here we see, "If you are
9 reading this my prays." Again kind of a tense error.

10 As well as here with a comma. In some of the
11 sentences, there would be a space, then a comma and a
12 space. Again, the same error was located here with some of
13 the punctuation, space comma space, here as well and here
14 with a space period space.

15 And then I think lastly was "can not," which
16 normally should be one word, with no space in between.
17 Notice the mistake there; and the same mistake was found
18 twice I believe in this note, those paragraphs.

19 Q. And so what we know is Government's 128B was found in
20 the Notes section of the defendant's cell phone, correct?

21 A. Yes, sir.

22 Q. And so a reasonable conclusion, the defendant wrote
23 that note. And so based on 128B, which is a note that we
24 know the defendant wrote, comparing it to Defendant's 86,
25 did you form a conclusion?

1 A. We did.

2 Q. And what was that conclusion?

3 A. We believe that Mr. Ashley, who wrote this note, also
4 would have written this note as well.

5 Q. And does that fit with the evidence of a print command
6 from 10:17 in the morning, two minutes after you believe
7 that Mr. Seegan was shot in the head?

8 A. Yes, sir, it does.

9 Q. And also with the fact that Mr. Ashley, the defendant
10 in this case, was in the home at the time as well?

11 A. Yes, sir.

12 Q. The only other person in the home?

13 A. Yes, sir.

14 Q. And, Detective Bonner --

15 MR. FINE: Your Honor, permission to publish
16 Government's 128B on the screen at this time as well?

17 THE COURT: Yes, go ahead.

18 BY MR. FINE:

19 Q. So it might have been, on the blowup, a little
20 difficult to read each and every word; but we saw the
21 comparison there.

22 In terms of 128B, how would you explain to the
23 jury sort of the tone and tenor of this note from the
24 defendant?

25 A. I gathered it was a possible suicide note in itself,

1 the fact that he -- it's like he had plans he was trying to
2 carry out that he may no longer be around, possibly taking
3 his own life, just by the verbiage of it.

4 Q. And was this note created after the death of James
5 Seegan?

6 A. I believe so.

7 Q. Yesterday, we showed Government's 94A, B, and C for the
8 jury. I failed to point something out yesterday. In
9 Government's 94A, which was the body cam of a bunch of
10 officers listening for a noise, can you explain to the jury
11 why we have just a body cam and not the actual video from
12 that?

13 A. Yes, sir.

14 So the evening that the officers and detectives
15 responded to the scene and they started looking through I
16 believe it was Mr. Seegan's cell phone, they could see the
17 Nest activation on there and they could go through and then
18 start seeing the videos.

19 The detectives attempted to save the videos that
20 they -- and I think one of them just -- the noise that
21 activated the camera in the garage, unfortunately, did not
22 save. So all we had was the officers' body cam rolling as
23 they're watching that actual video.

24 Q. In terms of the video itself, you hear sort of that
25 loud noise. What happens after the loud noise on the video

1 itself?

2 A. As far as -- the camera activates at the point of that
3 loud noise.

4 Q. And so does it go from basically just a dark screen to
5 the camera activating and you see the garage?

6 A. That's correct.

7 Q. Okay. You don't see any other movement other than
8 camera activates?

9 A. That is correct. There was no movement.

10 Q. And is that the same thing that happened in
11 Government's 94C?

12 A. That is correct.

13 MR. FINE: And, your Honor, with permission, may
14 we publish 94A and C sort of in a split screen?

15 THE COURT: Yes, go ahead.

16 MR. FINE: Thank you.

17 (Two audiovisual presentations to the jury.)

18 MR. FINE: And just one more time, 94A and 94C.

19 (Two audiovisual presentations to the jury.)

20 BY MR. FINE:

21 Q. And, Detective Bonner, even the noise itself, does it
22 sound very similar in terms of what we're hearing?

23 A. It does.

24 Q. 94C is a little bit louder, but it's a direct recording
25 versus a recording of a recording; is that fair?

1 A. That's correct.

2 Q. All right.

3 Now I want to move forward to February 21st.

4 During the course of your investigation, did you determine
5 that the defendant had access to Mr. Seegan's cell phone on
6 February 21st?

7 A. Yes, we did.

8 Q. And explain the circumstances to the jury.

9 A. Well, in the note itself saying contact Keith Ashley.
10 Dida did reach out to him to assist with some of the
11 accounts and things of that nature that she knew she was
12 having problems with, did not have access to and needed
13 some assistance.

14 Q. And did he end up accessing one of Mr. Seegan's bank
15 accounts on February 21st?

16 A. He did.

17 Q. Did he access it directly from a phone?

18 A. He did.

19 Q. And how was he able to do that?

20 A. I believe Dida asked him to give them assistance and he
21 made some statements, from what she advised us, that he
22 needed to see the cell phone.

23 And the only way to get access was through
24 Mr. Seegan's thumbprint or the child Josh's thumbprint. So
25 they used Josh's thumbprint, opened the phone; and then

1 that's when he had access to Mr. Seegan's phone.

2 Q. And were you, through the course of your investigation,
3 able to determine that the defendant actually tried to get
4 into that bank account before?

5 A. We did.

6 Q. And was that also on February 21st?

7 A. I believe so. Possibly the 20th or 21st.

8 Q. And where did he try to get access to that account
9 from? What location?

10 A. Initially it was from, I believe, his residence.

11 Q. And did he access the account?

12 A. He did not, due to not having the full authentication
13 from the other end.

14 Q. And when you say "the full authentication," is that one
15 of those dual authentication things where you go in and you
16 type and then it says, you know, we're going to send you a
17 text message with a four-digit code or whatever and then
18 you've got to go from there?

19 A. That is what we believe, yes, sir.

20 Q. And is that for security purposes?

21 A. Yes, sir.

22 Q. So people can't access accounts and steal money?

23 A. Correct.

24 Q. And so in this case would the defendant have been able
25 to access that account without getting ahold of

1 Mr. Seegan's cell phone?

2 A. He would not.

3 Q. And once he got ahold of Mr. Seegan's cell phone, was
4 he able to access the account?

5 A. He did.

6 Q. And did he steal \$20,000 out of that account?

7 A. We learned that he did.

8 Q. And so if you steal money from somebody after you kill
9 them, is that a robbery?

10 MR. WHALEN: Objection. That's a legal
11 conclusion.

12 THE COURT: Overruled.

13 A. It is.

14 BY MR. FINE:

15 Q. Did Mr. Seegan also have a sheet of paper with
16 passwords and accounts in his office?

17 A. Yes, sir.

18 Q. Was that easily accessible to somebody who was in the
19 office?

20 A. Yes, sir, it was.

21 Q. And did you also get information that the defendant
22 erased some text messages from Mr. Seegan's phone?

23 A. From -- what Dida advised us was that as he is looking
24 through Mr. Seegan's phone, he went through the text
25 messages between himself and Mr. Seegan and erased all of

1 them.

2 She asked him why was he doing that. Initially I
3 think she said he said it was a mistake -- or an accident,
4 I'm sorry. And then she made a statement that, "Well,
5 they'll be on your phone."

6 And he made -- then replied to her, "Well, I
7 delete all my messages between my clients and myself."

8 Q. And did that strike you as being odd?

9 A. Yes, it did.

10 Q. Suspicious?

11 A. Very much so.

12 Q. And was that another factor, through the course of your
13 investigation, that led you to your final conclusions?

14 A. It was.

15 Q. All right. On September 3rd the Carrollton Police
16 Department as well as the FBI conducted -- executed several
17 search warrants; is that correct?

18 A. Yes, sir.

19 Q. What locations were those search warrants executed at?

20 A. One of them was for Mr. Ashley's residence, and one was
21 for the brewery that he owned.

22 Q. Did you also access his truck as well?

23 A. We did.

24 Q. All right. And let's start with the defendant's home.

25 Explain to the jury -- so when you have a search warrant --

1 well, let's start with that. How do you obtain a search
2 warrant?

3 A. You have to have probable cause. You write up a
4 statement with the location or item that you are searching,
5 and you present that to a judge. A judge makes the
6 determination if there is enough probable cause to then
7 sign the search warrant to give us the legal authority to
8 conduct that search.

9 Q. And is that what happened in this case?

10 A. Yes, sir.

11 Q. And in regards to the defendant's home, did y'all
12 execute the search warrant?

13 A. We did.

14 Q. And approximately how many law enforcement agents were
15 there at that home?

16 A. I'd say roughly 10 to 15, somewhere in there.

17 Q. And when you're executing a search warrant in general,
18 do you go from room to room looking for potential evidence?

19 A. We do.

20 Q. And is it fair to say that you'd always rather
21 overcollect evidence than leave something there and have to
22 go get another search warrant?

23 A. That is correct.

24 Q. And so in this case talk to us about the types of items
25 that were seized from the defendant's home.

1 A. I believe one of the items was in his home office we
2 located the same -- we believed the same black backpack.
3 It was an Under Armour with a white X on the front, also
4 with a firearm inside that backpack.

5 We noticed inside a bag, a trash bag in his
6 office, there was a envelope from the Dallas County Medical
7 Examiner's Office; and there was also a receipt. I believe
8 it was for an autopsy report for Mr. Seegan.

9 Q. And were you able to determine who that letter was
10 mailed to?

11 A. It was mailed -- we learned that day that it was mailed
12 to an employee of Mr. Ashley's.

13 Q. And was his name Paul Villarreal?

14 A. Yes, sir.

15 Q. And did Mr. -- did you have a conversation with
16 Mr. Villarreal?

17 A. We did, on that same day, yes, sir.

18 Q. And at the conclusion of that conversation, did you
19 form a conclusion as to who told Mr. Villarreal to order
20 that autopsy?

21 MR. WHALEN: Objection as to hearsay, your Honor.

22 MR. FINE: Again it goes to the state of mind of
23 the detective and the investigation.

24 THE COURT: Okay. Overruled.

25 A. Yes. Mr. Villarreal informed us that Mr. Ashley

1 approached him and informed him he was going to be sending
2 an autopsy to his home -- asked for his address and was
3 sending it to his home and that he was to bring it to him
4 once he received it.

5 BY MR. FINE:

6 Q. And do you recall where Mr. Villarreal lived, what
7 city?

8 A. I don't recall the exact city. I know it was a little
9 bit of a drive.

10 Q. Was the actual envelope and the receipt found in the
11 defendant's home?

12 A. It was.

13 Q. And that's the home in Lucas, Texas?

14 A. That is correct.

15 Q. Which is in the Eastern District?

16 A. That is correct.

17 Q. All right. What did you make out of that, that the
18 defendant had one of his employees receive an autopsy
19 report of Jim Seegan?

20 A. It was my belief that it was, in a way, to keep himself
21 removed from drawing suspicion that he was asking for a
22 copy of the autopsy report.

23 Q. Can you think of a valid reason why somebody would ask
24 for an autopsy report?

25 MR. WHALEN: Objection, calls for speculation.

1 THE COURT: Sustained.

2 BY MR. FINE:

3 Q. Have you ever had a case before where a suspect
4 requested an autopsy report?

5 A. None that I'm aware of.

6 Q. And, again, the defendant in this case, he does have
7 knowledge in the field of medicine, correct?

8 A. He does.

9 Q. Between being a paramedic and a nurse?

10 A. That's correct.

11 Q. And in the autopsy report is there a toxicology
12 section?

13 A. There is.

14 Q. And also a cause of death as well?

15 A. Yes, sir.

16 Q. Did you also find several firearms in the defendant's
17 home?

18 A. We did.

19 Q. Approximately how many?

20 A. I don't recall the exact number, but there were
21 multiple. I think there were handguns and long guns.

22 Q. And did you find ammunition in the defendant's home?

23 A. We did.

24 Q. Did you find 9-millimeter ammunition?

25 A. We did.

1 Q. And to be fair, a 9-millimeter is a pretty common type
2 of firearm, correct?

3 A. That is correct.

4 Q. And 9-millimeter ammunition would go in any
5 9-millimeter handgun?

6 A. Yes, sir.

7 Q. But did you find any 9-millimeter ammunition in James
8 Seegan's house?

9 A. We did not.

10 Q. Did you find any gun cases?

11 A. No, sir.

12 Q. Did you find gun cases at the defendant's home?

13 A. We did.

14 Q. Did you find one that was empty?

15 A. We did.

16 Q. Did you find in that empty gun case -- that it would
17 fit a 9-millimeter handgun?

18 A. Yes, sir.

19 Q. Did you also find, between the brewery and the home,
20 syringes at the defendant's home or brewery?

21 A. We did.

22 Q. Did you find any syringes at James Seegan's home?

23 A. No, sir.

24 Q. And, again, to be fair, we're not saying that those
25 syringes were filled with etomidate, correct?

1 A. That's correct.

2 Q. But certainly a syringe would have been something that
3 you would need to administer etomidate?

4 A. Yes, sir.

5 Q. Did you also find, I guess, the long-sleeved sort of
6 jacket or top that Mr. Ashley was wearing that day?

7 A. Yes, sir.

8 Q. Did you ever find the jeans?

9 A. We did not.

10 Q. In the truck did you find the actual autopsy report of
11 James Seegan?

12 A. Yes, we did.

13 Q. And so this would have been the autopsy report that was
14 ordered and sent to Paul Villarreal?

15 A. I believe so, yes, sir.

16 Q. And so you've got the envelope and the receipt in the
17 defendant's home, correct?

18 A. Yes, sir.

19 Q. And the actual autopsy report in his vehicle?

20 A. That is correct.

21 Q. Did you also find a letter from an attorney in the
22 truck?

23 A. We did.

24 Q. And within that truck did you find anything else of
25 significance?

1 A. There was a second, I believe, cell phone in there.

2 But other than that, I don't recall offhand.

3 Q. All right. And did you seize that letter as well?

4 A. We did.

5 Q. And when I say that you seize an item, after you seize

6 evidence, what do you -- when I say "you," the Carrollton

7 Police Department -- what do you do with that evidence?

8 A. Well, depending on its nature, we determine if it needs

9 further investigation. But, again, it will be held as

10 evidence. We will, again, check that item over; and then

11 if it needs further -- like a cell phone or something of

12 that nature will require another search warrant to access

13 that cell phone.

14 Q. And in this case did you bring that letter down to

15 court?

16 A. We did.

17 Q. Okay. And is it identified as Government's 123A?

18 A. I believe so.

19 Q. If you'll in -- there should be a book.

20 MR. FINE: May I approach the witness, your Honor?

21 THE COURT: Yes, you my.

22 BY MR. FINE:

23 Q. There's two of them. There is one in front of you and

24 one behind.

25 A. Yes, sir.

1 Q. And so that is identified as Government's 123A,
2 correct?

3 A. Yes.

4 Q. Okay.

5 MR. FINE: And, your Honor, permission to publish
6 Government's 109, which are photographs from the search of
7 the defendant's home?

8 THE COURT: Go ahead.

9 BY MR. FINE:

10 Q. And starting at page 1 here, what are we looking at?

11 A. That looks like the front of Mr. Ashley's residence at
12 that time.

13 Q. Okay.

14 MR. FINE: If we could go to the next page,
15 please.

16 BY MR. FINE:

17 Q. And what are we looking at here?

18 A. It would be a firearm.

19 Q. And is this one of several firearms found in the
20 defendant's home?

21 A. Yes, sir.

22 Q. Okay.

23 MR. FINE: On to the next page, please.

24 BY MR. FINE:

25 Q. And what are we looking at here?

1 A. This would have been the garage and the large safe.

2 Q. And circling down here, do you know what that is?

3 A. Those appear to be gun cases for a long gun, rifle or
4 shotgun.

5 MR. FINE: Next page, please.

6 BY MR. FINE:

7 Q. Is this the backpack that we believe the defendant was
8 wearing when he went into Mr. Seegan's home?

9 A. Yes, sir.

10 Q. And you mentioned that there was a firearm in this
11 backpack?

12 A. Yes, sir.

13 Q. And through the course of your investigation, he was
14 known to carry a firearm in that backpack at all times?

15 A. That is what we learned, yes, sir.

16 MR. FINE: Next page, please.

17 BY MR. FINE:

18 Q. What firearm are we looking at here?

19 A. This would have been, I believe, the firearm located
20 inside the backpack at the time of the search warrant.

21 Q. And it's a handgun as well?

22 A. Yes, sir.

23 MR. FINE: Next page.

24 BY MR. FINE:

25 Q. What is this item in the middle of page 7 here?

1 A. Syringes.

2 Q. And was that found in the defendant's home?

3 A. It was.

4 MR. FINE: Next page, please.

5 BY MR. FINE:

6 Q. And what is the PHI Air Medical Texas? What was found
7 in this binder?

8 A. This is some of the training that Mr. Ashley had
9 received from the PHI Air Medical as a medic.

10 Q. And was this -- contained in this what we saw in
11 Government's 113 when we had those questions about
12 etomidate in there?

13 A. Yes, sir.

14 Q. And this is something that he kept in his home?

15 A. Yes, sir.

16 Q. Readily available to look at and reference,
17 potentially?

18 A. Yes, sir.

19 MR. FINE: Next page, please.

20 BY MR. FINE:

21 Q. What are we looking at here?

22 A. I believe that's 9-millimeter ammunition.

23 Q. And, again, is 9-millimeter ammunition the type of
24 ammunition that was used to kill Mr. Seegan?

25 A. It was.

1 Q. Okay. And is that the empty gun case that we spoke of
2 as well?

3 A. I believe so, yes, sir.

4 Q. Okay. And that's actually Government's 110 which we
5 have here in the courtroom as well.

6 A. Yes, sir.

7 Q. And that could house a 9-millimeter handgun?

8 A. Yes, sir.

9 Q. Did you find any other empty handgun cases in the
10 house?

11 A. I don't believe we found other empty handgun cases.

12 MR. FINE: Next page, please.

13 BY MR. FINE:

14 Q. And you talked about his medical training. Are these
15 two IDs which show he's a registered nurse at City Hospital
16 and a flight nurse as well?

17 A. That is correct.

18 Q. And is that consistent with the background that you
19 found out about Mr. Ashley?

20 A. Yes, sir.

21 MR. FINE: Okay. Next page, please.

22 BY MR. FINE:

23 Q. What are we -- what's significant about this trash bag
24 here?

25 A. Well, as we were conducting a search on the home, we

1 noticed it appeared they were packing for moving. And this
2 was located inside his home office and it was full of just
3 documents, paper documents, and so that is where we
4 searched that bag. We located the receipt and the envelope
5 that would have contained the autopsy report.

6 Q. Okay.

7 MR. FINE: Next page, please.

8 BY MR. FINE:

9 Q. And is this the envelope from the Southwestern
10 Institute of Forensic Sciences addressed to Paul
11 Villarreal?

12 A. It is.

13 Q. And do you know if Farmersville, Texas, is also in the
14 Eastern District?

15 A. I believe so.

16 Q. And within this envelope would have been the autopsy
17 report found in his truck, correct?

18 A. That is correct.

19 Q. All right.

20 MR. FINE: Next page, please.

21 BY MR. FINE:

22 Q. And is this the receipt for \$5 for the autopsy report
23 from James Seegan?

24 A. That's correct.

25 Q. It shows May 19th, 2020?

1 A. Yes, sir.

2 Q. Okay.

3 MR. FINE: Next page, please.

4 BY MR. FINE:

5 Q. We talked about his law enforcement background. Does
6 this indicate that he attended basically a police academy?

7 A. It does.

8 Q. And we talked about within the police academy you
9 receive -- everybody in the state of Texas receives some
10 basic crime scene education as well?

11 A. That is correct.

12 Q. All right.

13 MR. FINE: Next page, please.

14 BY MR. FINE:

15 Q. And again is this another letter showing medical
16 background leading back to his time in the Navy as well?

17 A. It appears so, yes, sir.

18 MR. FINE: Next page, please.

19 BY MR. FINE:

20 Q. What are we looking at here?

21 A. These are some of the -- several of the IDs that were
22 located during the search of his home.

23 Q. So City of Wylie Police. We've got Health Network,
24 student. We have Children's Health over here. And then we
25 have another medical ID as well, correct?

1 A. Yes, sir.

2 Q. And his peace officer's license as well?

3 A. Yes, sir.

4 Q. All right.

5 MR. FINE: Next page, please.

6 BY MR. FINE:

7 Q. And what are these that we're looking at here?

8 A. I believe that was from that large safe located in the
9 garage of Mr. Ashley's home that we were --

10 Q. Okay.

11 A. -- able to access and the firearms we located.

12 Q. And what type of firearms are these?

13 A. They appear to be all long guns, a shotgun or rifle.

14 Q. Several of them as well, correct?

15 A. Yes, sir.

16 Q. Okay.

17 MR. FINE: Next page.

18 BY MR. FINE:

19 Q. And what about here? What are we looking at?

20 A. Looks like we have two handguns and multiple magazines
21 for -- possibly three handguns, multiple magazines as well.

22 MR. FINE: Next page.

23 BY MR. FINE:

24 Q. Is this the defendant's -- appears to be his badge from
25 the City of Wylie Police Department?

1 A. It appears so, yes, sir.

2 Q. Okay.

3 MR. FINE: Next page.

4 BY MR. FINE:

5 Q. What is the significance of this shirt?

6 A. We believe that to be the same shirt that was seen on
7 camera that he was wearing the day of Mr. Seegan's death.

8 MR. FINE: Next page.

9 BY MR. FINE:

10 Q. And again more certified flight emergency paramedic
11 type things here; and there is a document from Parkland
12 Securities as well, correct?

13 A. Yes, sir.

14 Q. And did you find out that he -- that the defendant was
15 affiliated with Parkland Securities through your
16 investigation?

17 A. We did.

18 MR. FINE: Next page.

19 BY MR. FINE:

20 Q. What's the significance of this?

21 A. It just -- it shows him -- appears to be on duty as a
22 medic treating a patient.

23 Q. Okay.

24 A. Assisting.

25 Q. And what is he wearing here?

1 A. Gloves.

2 Q. And so this -- I mean, this might be kind of a silly
3 question. But if somebody were wearing gloves during the
4 commission of a crime, would they leave fingerprints?

5 A. They would not.

6 Q. And when -- you said you've had your blood drawn
7 before. Generally, does the person who draws your blood
8 wear gloves?

9 A. They do.

10 Q. And so would it be suspicious for somebody to put
11 gloves on if they were going to draw somebody's blood?

12 A. It would not be.

13 MR. FINE: Next page.

14 BY MR. FINE:

15 Q. And again Certified Flight Registered Nurse here.

16 MR. FINE: Next page.

17 BY MR. FINE:

18 Q. Is this another handgun?

19 A. Yes. That may be one that we've seen from earlier, but
20 yes.

21 Q. Okay.

22 MR. FINE: Next page.

23 Is that the end? Okay.

24 BY MR. FINE:

25 Q. During the course of your investigation, did you come

1 to find evidence of financial fraud involving the defendant
2 as well?

3 A. We did.

4 Q. And did you bring the FBI in to assist in that
5 investigation?

6 A. Yes, we did.

7 Q. And did you also find some paperwork designating the
8 James Seegan trust as the executor of a life insurance
9 policy?

10 A. That is correct.

11 Q. A \$2 million life insurance policy?

12 A. That's correct.

13 Q. And on that paperwork -- was Jim Seegan's signature on
14 that paperwork?

15 A. Yes.

16 Q. And was Dida Seegan's signature on that paperwork?

17 A. It was.

18 Q. Did you later come to find out whether Dida's signature
19 was forged?

20 A. As we interviewed her, she informed us -- we showed her
21 the document, and she stated right away that was not her
22 signature.

23 Q. And did you believe that to be true?

24 A. Yes.

25 Q. Did she seem to have any idea about those documents

1 whatsoever?

2 A. No. Dida informed us fairly often --

3 MR. WHALEN: Objection as to hearsay, your Honor.

4 THE COURT: Sustained.

5 MR. FINE: Okay.

6 BY MR. FINE:

7 Q. Through the search of the defendant's home, did you
8 find other documents that appeared to be suspicious in
9 terms of signatures?

10 A. We did.

11 Q. Specifically related to Jim Seegan?

12 A. We did.

13 MR. FINE: Permission to approach the witness,
14 your Honor?

15 THE COURT: Yes, you may.

16 BY MR. FINE:

17 Q. Detective Bonner, I'm going to show you Government's
18 Exhibit 114, which I believe has been admitted into
19 evidence.

20 MR. FINE: Is that correct, your Honor, 114?

21 THE COURT: 114 has not been admitted.

22 MR. FINE: We'll go through the predicate, then.

23 BY MR. FINE:

24 Q. I want you to take a look at Government's Exhibit 114.

25 THE COURT: Oh, I take that back.

1 MR. FINE: Is it in?

2 THE COURT: I'm sorry. It's in a long list of
3 exhibits that were admitted.

4 MR. FINE: And I had the same issue I was looking
5 through.

6 THE COURT: I just haven't updated my form. So it
7 has been admitted.

8 MR. FINE: Okay.

9 BY MR. FINE:

10 Q. Take a look at 114. I know we have an electronic copy,
11 but I want you to take a look at the physical copy on the
12 first two pages here.

13 Does there appear to be anything odd about those
14 first two pages?

15 A. Yes. There appears to be -- on the Gift Letter title
16 page there is a Wite-Out area around where the signature
17 would be located.

18 MR. FINE: And permission to publish this directly
19 to the jury, your Honor?

20 THE COURT: Yes, you may.

21 BY MR. FINE:

22 Q. So on page 1 and page 2, there are some whited-out
23 areas, correct?

24 A. Correct.

25 Q. I'm going to give the jury a moment to look at that.

1 And so, Detective Bonner -- that's on a Gift
2 Letter, correct?

3 A. Yes, sir.

4 Q. What did you find significant about the Wite-Out on
5 that Gift Letter?

6 A. Well, we located another copy of this Gift Letter with
7 the signature of Mr. Seegan placed in that area where the
8 Wite-Out was.

9 Q. And so what conclusion did you form from that?

10 A. Well, based off of the signature we found on the other
11 documents, we noticed there was an error in the signature
12 that -- where the natural signature form would dip below
13 the line, there were little marks or areas where they did
14 not show up; and that was copied over to the actual Gift
15 Letter. It showed that it appeared to be just a copy and a
16 forgery.

17 Q. And so that would constitute a forgery of Mr. Seegan's
18 signature?

19 A. Correct.

20 Q. And is that consistent with the evidence of a forgery
21 of Ms. Seegan's signature as well?

22 A. It is.

23 Q. And that is found directly in the defendant's home,
24 correct?

25 A. Correct.

1 Q. All right.

2 We talked about the cell phone extractions of the
3 defendant. In a cell phone extraction are you able to see
4 searches as well, what people are searching for?

5 A. We are sometimes.

6 Q. And so in this case did you find some searches on the
7 defendant's phone that were significant to you?

8 A. Yes, sir.

9 Q. And on April 30th did the defendant search asking if a
10 Nest camera -- an indoor Nest camera could detect sound if
11 no motion?

12 A. Yes, sir.

13 Q. And what did you take from that?

14 A. Again, we thought it was a very odd thing to search
15 after the fact because -- we believed it was something very
16 suspicious.

17 Q. And, I mean, in terms of the overall investigation, the
18 Nest camera, the indoor camera in the garage, that is
19 significant, correct?

20 A. That is correct.

21 Q. It constitutes a time of death potentially.

22 A. Yes, sir.

23 Q. And so on April 30th he's searching "can Nest camera
24 indoor detect sound if no motion"?

25 A. That's correct.

1 Q. On May 9th did he search "manslaughter jail time"?

2 A. He did.

3 Q. Did he search "manslaughter deferred adjudication in
4 Texas"?

5 A. He did.

6 Q. What did you take out of those searches?

7 A. Again, I believed it was highly suspicious.

8 Q. On September 3rd, 2020, did he search "can manner of
9 death be changed by medical examiner"?

10 A. He did.

11 Q. Did he also search "can police overrule a medical
12 examiner"?

13 A. He did.

14 Q. And then two other searches that did not have dates on
15 them, was one of those searches a time of death calculator?

16 A. It was.

17 Q. And was another one "how can you find out if a case is
18 going to grand jury"?

19 A. Yes.

20 Q. And, again, if you could tell the jury the significance
21 of that?

22 A. Again, all those searches we believed to be highly
23 suspicious for someone in his position.

24 Q. And Detective Bonner, again, here's another magnet that
25 I showed you earlier, correct?

1 A. Yes, sir.

2 Q. Initially, the medical examiner ruled this case a
3 suicide, correct?

4 A. That is correct.

5 Q. And the medical examiner and the police department,
6 they serve two different functions. Is that fair to say?

7 A. Yes, sir.

8 Q. So what function does the medical examiner serve in
9 terms of an investigation?

10 A. They're there to conduct the medical portion of their
11 investigation involving the body itself.

12 Q. And when the case was ruled a suicide, did they have
13 the full case file in front of them?

14 A. No, sir.

15 Q. And, in fact, at that point did they have any of these
16 searches? Did they have the fact that he was a nurse, that
17 he had access to etomidate, any of these things at all?

18 A. No, sir.

19 Q. And so within the medical examiner's findings,
20 basically in the report it states "gun found in hand,"
21 "contact wound," and "suicide note found next to body,"
22 correct?

23 A. Yes, sir.

24 Q. And so, realistically, you look at those factors just
25 in a vacuum, it looks like a suicide, right?

1 A. That's correct.

2 Q. So let me ask you this: The medical examiner ruled it
3 a suicide. Did the Carrollton Police Department ever rule
4 it a suicide?

5 A. We did not.

6 Q. Did they ever close the investigation?

7 A. No, sir.

8 Q. And so did the investigation remain pending?

9 A. It did.

10 Q. And so did the medical examiner's findings at that
11 point, initially, have any impact on your final
12 conclusions?

13 A. It did not.

14 Q. And why is that?

15 A. Our job is to continue the criminal investigation and
16 just to get to the bottom of it to make sure everything
17 we're seeing is true and correct.

18 Q. So, essentially, what you're left with at some point is
19 the first step, is it murder or is it a suicide, right?

20 A. Correct.

21 Q. And what do you believe it to be?

22 MR. WHALEN: Objection, calls for a legal
23 conclusion, your Honor.

24 THE COURT: Well, he can -- overruled.

25 A. I'm sorry. Could you restate the question?

1 BY MR. FINE:

2 Q. Do you believe that the death of James Seegan was a
3 murder or a suicide?

4 A. I believe it was a murder.

5 Q. And let's talk about the factors why you do not believe
6 it was a suicide.

7 What was James Seegan's position on firearms?

8 A. He was -- he did not like guns, and every friend and
9 family member that we talked to stated as much.

10 Q. Was there any evidence of guns in the home?

11 A. There was not.

12 Q. Ever any evidence of a gun purchased within days
13 leading up to this?

14 A. There was not.

15 Q. And did y'all look at Mr. Seegan's finances as well?

16 A. We did.

17 Q. The relationship with his son, Josh, did that factor
18 into your determination this was not a suicide?

19 A. It did.

20 Q. And how?

21 A. He was ordering gifts for Josh to receive either the
22 next day or so, in the next coming days, that he was very
23 excited about. He was planning things as if his normal
24 life was moving forward. There was nothing that we found
25 that led us to believe he was suicidal in any way.

1 Q. Did the note next to Mr. Seegan factor into your
2 determination it was not a suicide?

3 A. It did.

4 Based off of the note and then other documents
5 we've located written by Mr. Seegan, they did not seem to
6 match at all. Mr. Seegan was a very detailed person; and
7 everything we located on him just did not match with
8 someone of his stature taking their own life and
9 documenting it in that way or leaving a note in that way,
10 just did not match at all.

11 Q. What about the fact that Mr. Seegan was right-handed?
12 Did that factor into your determination?

13 A. It did.

14 Q. How so?

15 A. Again, it's a -- it is uncommon for someone to commit
16 suicide with their off hand, while not -- I won't say
17 never, but it is uncommon.

18 Q. What about the placement of the chair in the room? Did
19 that factor in?

20 A. It did.

21 Q. How so?

22 A. Per Dida, his chair was never -- he never sat in that
23 position. The chair was never over there. And, again,
24 based off of our belief that Mr. Ashley was there to
25 conduct a blood draw on him, we thought his chair was in a

1 position where he could place his arm out to give blood.

2 Q. What about -- we mentioned right hand versus left hand.

3 What about the positioning of Mr. Seegan's hand?

4 A. Again, the -- with the gun being in his hand after a
5 contact wound to the head like that, it would -- just
6 extremely unlikely that the hand would fall with the gun
7 and then drawback up underneath the actual armrest of the
8 chair. Just didn't make sense.

9 Q. What about Mr. Seegan's positions on vaccines or the
10 lack of needles or syringes or anything IV-related in the
11 home? Did that factor in?

12 A. It did.

13 Q. And how so?

14 A. We learned, again through our investigation, that
15 Mr. Seegan held anti-vaxxer beliefs. He did not wish his
16 son to be vaccinated on many vaccinations.

17 And even when he did take any kind of -- when he
18 had to have medication, Mr. Seegan himself, he would
19 document it in a journal and state how he felt and what it
20 was causing, things of that nature.

21 Q. What about the etomidate itself? Is that something
22 that would be readily available to any person?

23 A. It would not be.

24 Q. Something that's sold on the street like cocaine or
25 heroin or marijuana?

1 A. No, sir.

2 Q. What about the fact that you'd have to inject it into
3 yourself? Did that factor as well?

4 A. Yes, sir.

5 Q. The note itself, the suicide note itself, did it have
6 any blood on it?

7 A. It did not.

8 Q. And did that factor into your determination this was
9 not a suicide?

10 A. It was part of it, yes, sir.

11 Q. What about the fact that Mr. Seegan had not expressed
12 any suicidal thoughts, depression, anything like that? Did
13 that factor in as well?

14 A. Yes, sir.

15 Q. And so all these things that we talked about -- I think
16 there's about 15 things we just went over. Is it fair to
17 say you could pull any one thing out and explain it?

18 A. Sure. Yes, sir.

19 Q. But you would basically need 15 different explanations
20 to explain those 15 things.

21 A. That's correct.

22 Q. And so when you're conducting an investigation, do you
23 look at each individual thing in a vacuum; or do you look
24 at it globally as a totality of the evidence?

25 A. We look at it as a totality.

1 Q. And so it's your belief this was a murder, correct?

2 A. Yes, sir.

3 Q. And so if it is your belief it is a murder, who do you
4 believe committed that murder?

5 A. I believe it was Mr. Ashley.

6 Q. And let's talk about why you believe it was Mr. Ashley.

7 Mr. Ashley had background in the field of
8 medicine, correct?

9 A. Yes, sir.

10 Q. He had checked out etomidate --

11 MR. WHALEN: Objection to the leading, your Honor.

12 THE COURT: Okay. Sustained. Just rephrase the
13 question.

14 BY MR. FINE:

15 Q. Had he checked out etomidate on December 17th, 2019?

16 A. He did.

17 MR. WHALEN: Same objection, your Honor.

18 THE COURT: Okay. Just rephrase the question.

19 BY MR. FINE:

20 Q. Was there any evidence that you found in regards to
21 etomidate and the defendant?

22 A. Yes.

23 Q. And what was that evidence?

24 A. The system used at the hospital he worked at showed a
25 log of him checking out etomidate December 2019.

1 Q. And did you also find anything that would lead you to
2 believe he had training in the area of etomidate?

3 A. We did.

4 Q. And what was that?

5 A. His testing for PHI Air Medical. There was questions
6 that he answered on tests specifically related to
7 etomidate.

8 Q. We talked about his law enforcement background. What
9 was the significance of his training in law enforcement in
10 your investigation in determining that Mr. Ashley was the
11 one that committed this murder?

12 A. We just determined it would -- he would certainly have
13 knowledge of a crime scene and how to possibly manipulate
14 one, if needed.

15 Q. And was this scene staged pretty well?

16 A. It was.

17 Q. I mean, it certainly -- initial people on the scene --
18 to some people, off the bat it looked like a suicide,
19 correct?

20 A. That's correct.

21 Q. What about the text messages and phone calls that he
22 made throughout the day on February 19th 2020? "He" being
23 the defendant in this case.

24 A. Yes, sir. Again, we thought they were odd, in a way to
25 possibly throw off suspicion, as if he were checking in on

1 the deceased.

2 Q. And have you -- through the course of your training and
3 experience, have you seen that before with suspects?

4 A. To try to lead us astray or lead evidence one
5 direction, yes, sir.

6 Q. Or create an alibi?

7 A. Correct.

8 Q. And did the defendant attempt to do that here?

9 A. He did.

10 Q. And, Detective Bonner, in terms of those text messages,
11 did they start as soon as 10:24 a.m.?

12 A. They did.

13 Q. And that was an unread text message, correct?

14 A. That is correct.

15 Q. And an unread text message and an unanswered call and
16 the phone never moving after 9:33, is that also consistent
17 with your theory that the death happened at 10:15?

18 A. It is.

19 Q. And were there calls at 10:33 and 10:34 from the
20 defendant to Mr. Seegan's phone?

21 A. There were.

22 Q. And were those unanswered?

23 A. Correct.

24 Q. And was there another call at 11:08 a.m. on
25 February 19th?

1 A. Yes, sir.

2 Q. Was that also unanswered?

3 A. Yes, sir.

4 Q. And was there another text message at 4:37 p.m.?

5 A. That is correct.

6 Q. And were there two more calls, at 5:01 and 5:02 p.m.?

7 A. Yes, sir.

8 Q. And that was right before Mr. Seegan's body was found
9 by his son and his wife, correct?

10 A. That's correct.

11 Q. And the 9-1-1 call came in at 5:22 p.m.

12 A. Yes, sir.

13 Q. We also mentioned that on May 20th, 2020, the medical
14 examiner mailed the autopsy to Paul Villarreal, correct?

15 A. Yes, sir.

16 Q. You've expressed to this jury you believe that a murder
17 was committed against James Seegan, you believe that a
18 robbery was committed against James Seegan, and you believe
19 that the defendant was the one that committed those crimes,
20 correct?

21 A. That is correct.

22 Q. And that is your role, as the lead detective from
23 Carrollton, to form those conclusions, correct?

24 A. Yes, sir.

25 Q. And did you determine a motive? Why?

1 A. We believed it to be financially --

2 MR. WHALEN: Object. Calls for speculation.

3 THE COURT: Just rephrase the question.

4 BY MR. FINE:

5 Q. Through the course of your investigation, were you able
6 to determine -- through interviews, through pouring through
7 evidence, through consulting with other investigators from
8 various law enforcement agencies, were you able to
9 determine what benefit the defendant would receive from
10 this?

11 MR. WHALEN: Calls for speculation.

12 THE COURT: Well, overruled.

13 If you can answer.

14 A. We were.

15 BY MR. FINE:

16 Q. And what was that?

17 A. That he would financially gain from it.

18 Q. And did he financially gain by stealing \$20,000
19 36 hours after he killed Mr. Seegan?

20 A. He did.

21 Q. And could he have potentially benefited long-term by
22 the millions of dollars that he had in his control?

23 A. That is correct.

24 Q. And so the defendant ended up resigning as the executor
25 of the trust about a week after the murder, correct?

1 A. Yes, sir.

2 Q. What was your opinion on that, in terms of him
3 resigning?

4 MR. WHALEN: Calls for speculation.

5 THE COURT: Overruled.

6 If you can answer.

7 A. We believed that possibly some of the heat was coming
8 on with questions being asked by Dida and other family
9 members. We think he was trying to remove himself at that
10 point.

11 BY MR. FINE:

12 Q. And is that, again, consistent with the throwing off
13 suspicion, the alibis that we've seen consistently
14 throughout, February 19th all the way through the course of
15 your investigation?

16 A. Yes, sir.

17 Q. In terms of the firearm that was used to kill
18 Mr. Seegan, through a review of the cell phone records of
19 the defendant, were you able to determine the locations
20 where the gun could have been brought from?

21 A. We believed it would have been from his home or his
22 brewery.

23 Q. And are both of those in the Eastern District of Texas?

24 A. They are.

25 Q. And in terms of looking at the cell phone data, he left

1 his home in the early morning. He went to the brewery,
2 correct?

3 A. Yes, sir.

4 Q. And from the brewery he traveled down 75 and across
5 George Bush?

6 A. That is correct.

7 Q. South to Mr. Seegan's home and arrived in the
8 neighborhood about 9:10 in the morning; is that correct?

9 A. That is correct.

10 Q. Were there any stops along the way other than his home
11 and the brewery?

12 A. No, sir.

13 Q. And it's your belief that gun certainly did not come
14 from Mr. Seegan's home?

15 A. That is correct.

16 Q. All the evidence in this case points to -- in terms of
17 the two homes, Seegan home, Ashley home, where is all the
18 evidence of anything involving a firearm? Which home?

19 A. All the evidence would have been located in
20 Mr. Ashley's home other than the firearm itself when it was
21 in Mr. Seegan's hand.

22 Q. On September 3rd, did the defendant also search -- do a
23 Google search for "QTOF"?

24 A. He did.

25 Q. And at the time did you have any -- was that even

1 significant to you?

2 A. We did not know it to be.

3 Q. And, you know, one of the things I should have brought
4 out, an investigation, any investigation, especially a
5 homicide investigation, that continues throughout, correct?

6 A. It does.

7 Q. So if somebody came in here with new evidence today,
8 would you investigate it?

9 A. Certainly.

10 Q. Would you continue to investigate until any new
11 evidence was brought to you?

12 A. Yes.

13 Q. And so having said that, with QTOF, that was something
14 that recently you found out about; is that fair?

15 A. That is correct.

16 Q. What is QTOF?

17 A. I believe it is the system used by the lab, whenever
18 they're checking the femoral blood drawn during the
19 autopsy, that locates any kind of narcotic or drug in the
20 actual blood of the person it was drawn from.

21 Q. And up until, you know, recently, did you -- as a
22 trained investigator, a major crime investigator with the
23 Carrollton Police Department, did you even know what QTOF
24 was?

25 A. I did not.

1 Q. But who was searching "QTOF" on his phone?

2 A. Mr. Ashley.

3 Q. The defendant in this case?

4 A. Yes, sir.

5 MR. FINE: I'll pass the witness.

6 THE COURT: Cross-examination?

7 CROSS-EXAMINATION OF BRANDON BONNER

8 BY MR. WHALEN:

9 Q. Detective Bonner, good morning.

10 A. Good morning, sir.

11 Q. Okay. Let's start -- I'm going to try to do this
12 chronologically, but I'm sure my mind will jump back and
13 forth. But try to stick with me if you can, okay?

14 A. Yes, sir.

15 Q. All right. So let's start with February 19th, correct?
16 That's the day of this incident at Mr. Seegan's house,
17 correct?

18 A. Yes, sir.

19 Q. Okay. So Detective Duncan is the investigator on call,
20 correct?

21 A. Yes, sir.

22 Q. Okay. So she gets called out to the scene, correct?

23 A. Yes, sir.

24 Q. Okay. And when you took over the case, did you review
25 the file and review body cam footage and things like that?

1 A. I did.

2 Q. Okay. And from what I can tell is that -- well, let me
3 back up.

4 And Captain King was there that day, correct?

5 A. I believe so, yes, sir.

6 Q. Okay. And we've learned that Captain King -- when he
7 went in, he had some things that concerned him, correct?

8 A. Yes, sir.

9 Q. Okay. And he relayed them to Sergeant Schroeder, or
10 Schroeder (pronouncing), correct?

11 A. I believe so.

12 Q. Okay. And so, then, is it fair to say that Sergeant
13 Schroeder relayed them to Detective Duncan?

14 A. I believe so.

15 Q. Okay. So -- and I think other people had some
16 potential concerns about it, correct?

17 A. Yes, sir.

18 Q. Okay. And that was all relayed to Detective Duncan,
19 correct?

20 A. Yes, sir. It should have been.

21 Q. And also we had -- they were able to see the Ring
22 doorbell camera, correct?

23 A. Nest doorbell, yes, sir.

24 Q. Okay. Well, let me ask you this: We're talking about
25 Nest and we're talking about Ring; so I want to make sure

1 we're clear what we're talking about, okay?

2 They were able to see -- the Ring doorbell is what
3 we see in the picture of someone pressing that doorbell,
4 correct?

5 A. I believe all the items are Nest products, if I'm not
6 mistaken.

7 Q. Okay. So they see the videos, correct?

8 A. Yes, sir.

9 Q. Okay. So Detective Duncan knew that then, correct?

10 A. I believe so.

11 Q. Okay. And -- because we've heard testimony from others
12 that they were able to access the phone and watch those
13 videos, correct?

14 A. Yes, sir.

15 Q. Okay. And if we look -- so then the next thing is this
16 Nest cam that's in the garage, correct?

17 A. Yes, sir.

18 Q. Okay. And we saw that little clip where people heard
19 that supposed noise, correct?

20 A. Yes, sir.

21 Q. Okay. And just -- without having to pull it up, to the
22 right of that photograph we see a female person. And is
23 that Detective Duncan?

24 A. With the red hair, yes, sir.

25 Q. With the red hair, okay.

1 So she's heard it, right?

2 A. Yes, sir.

3 Q. Okay. Now, was this a video?

4 A. Yes. It was playing on, I believe, Mr. Seegan's cell
5 phone.

6 Q. Okay. So when we see the body cam footage, we just see
7 a bunch of people listening; but we don't see the actual
8 video, do we?

9 A. That's correct.

10 Q. Okay. So did anybody at that time think it was
11 important to videotape the video?

12 A. I don't believe so.

13 Q. Okay. So when we hear this sound coming from a video,
14 there is no video?

15 A. From that moment, no, sir.

16 Q. Okay. But Detective Duncan knew all these different
17 things at the time, correct?

18 A. She was learning them that day, yes, sir --

19 Q. Okay.

20 A. -- or evening.

21 Q. And she's also -- correct me if I'm wrong. The
22 Detective Duncan on scene, they will direct the crime scene
23 investigators on what pictures to take and what evidence to
24 collect, correct?

25 A. Partially. Crime scene investigators usually know the

1 scene and how to do that themselves. Now, there will be
2 specific things a detective will ask for during but --
3 Q. All right. And let's talk briefly -- if you know,
4 Detective Duncan, how many years on the job did she have at
5 that point?
6 A. I want to say over 20.
7 Q. Okay. So would you agree with me that she's a seasoned
8 law enforcement person?
9 A. Yes.
10 Q. Okay. And when we talk about being in law enforcement,
11 if you're on patrol answering calls, you get to see a lot
12 of stuff, right?
13 A. That is correct.
14 Q. Okay. And so you go to suicides as a patrol officer,
15 correct?
16 A. That is correct.
17 Q. You go to robberies, homicides. You get to see it all,
18 correct?
19 A. Yes, sir.
20 Q. And as part of being a patrol officer, if you have a
21 desire to move up, is it fair to say that you're going to
22 sit and observe how the detectives handle their business,
23 correct?
24 A. Yes.
25 Q. Okay. And so it's kind of like on-the-job training,

1 right?

2 A. Yes, sir.

3 Q. Okay. And so do you know how many years she was in
4 patrol or how many years she was in the detective squad?

5 A. I don't know offhand. I just -- I know she came into
6 to the CID about the same time that I did.

7 Q. Okay. And so she has a lot of experience, correct?

8 A. She does.

9 Q. Okay. And we also -- so she knew all this information
10 at the time, correct?

11 A. Yeah. She was learning it that evening, yes, sir.

12 Q. Okay. And would you agree with me, based on when you
13 got the file, she concluded "scene consistent with
14 suicide," correct?

15 A. I don't -- I wouldn't say that. I think -- because,
16 again, I was not involved in the case for the first month
17 and a half or so.

18 I would hear her discussing it almost every day
19 with another seasoned detective, and they would go through
20 every piece of evidence they had up to that moment.

21 I could just hear them discussing it; and they
22 were trying to discuss whether they believed, you know, was
23 this a suicide versus a homicide and looking at all the
24 evidence.

25 Q. Okay. But if she wrote in a report "crime scene

1 consistent with suicide" --

2 A. She may have.

3 Q. Okay. And that's -- and then she released the body to
4 the medical examiner, correct?

5 A. We do that on every suicide, yes, sir --

6 Q. Okay.

7 A. -- or every death.

8 Q. So if you were at a scene where you believed it was
9 more suspicious, would you conclude -- would you write
10 "seems suspicious, investigate further"? Would you agree
11 with --

12 A. Normally you would, yes, sir.

13 Q. Okay. And also if you thought it was suspicious, would
14 it cause you to do a more thorough search of the home at
15 that time?

16 Would you agree with that?

17 A. Certainly if you thought it was a homicide, you would
18 do a further search of the home.

19 Q. Okay. And so because that wasn't concluded that night,
20 a more thorough search wasn't done of the home, correct?

21 A. Well, there were numerous photographs taken; but we did
22 not do a complete search of every room and every drawer as
23 we would if it was -- we determined a homicide that same
24 evening.

25 Q. Okay. And did you learn that night that the back door

1 and the back gate were unlocked?

2 A. That, I don't recall.

3 Q. Okay. When did you learn that?

4 A. Well, again, I didn't come on to the investigation
5 until, I believe, April.

6 Q. Okay.

7 A. And so then that's when I started going through all of
8 the case reports and all the evidence.

9 Q. Okay.

10 MR. WHALEN: If we can go to -- I think it's
11 Exhibit 79, please, page 2.

12 BY MR. WHALEN:

13 Q. I want to talk to you about this -- the Ring. You see
14 that Ring doorbell camera in Exhibit 79, page 2, correct?

15 A. I do see the doorbell camera.

16 Q. Okay. And it's right here?

17 A. Yes, sir.

18 Q. Okay. And then do you see this sticker, right there?

19 A. I do.

20 Q. Okay.

21 MR. WHALEN: Can you blow that up, please.

22 BY MR. WHALEN:

23 Q. Okay. And does that sticker seem to indicate that
24 things are being videotaped and recorded?

25 A. Yes, sir.

1 Q. Okay. And would you agree with me the Ring doorbell by
2 this time is pretty well known, correct?

3 A. Yes, sir.

4 Q. Okay. And so average person would know that's a Ring
5 doorbell. I'm on camera, correct?

6 A. Yes, sir.

7 Q. Okay.

8 MR. WHALEN: If you can back out of that
9 photograph, please.

10 BY MR. WHALEN:

11 Q. Well, let me back up, too, while I'm thinking about it.
12 In Carrollton -- does Carrollton have a program where if
13 you have -- if citizens have cameras in their garage and
14 things, that they can sign up -- I know they do in Dallas
15 and other cities -- that you can sign up and say, "Hey,
16 look, I've got a camera. Law enforcement, if you need it
17 just reach out to me and I'll be happy to provide it"?

18 A. We did obtain that. I'm not for sure exactly the date
19 and time we did, but we do have something of that now.

20 Q. Okay. So you don't know when you started that program?

21 A. I don't.

22 Q. Okay. And if you thought at the time that this was a
23 suspicious death or a homicide, would it have made sense to
24 canvas the neighborhood for any video and things of that
25 nature?

1 A. Yes, sir.

2 Q. Okay. All right. So getting back to Exhibit 79,
3 page 2, you would agree with me that there's packages on
4 the front step?

5 A. Yes, sir.

6 Q. Okay. And without having to pull it up, if we went
7 back to the Ring video, would you agree with me that
8 looking at the video, when we see Mr. Ashley come in,
9 there's no packages on the front step?

10 A. It does not appear to be.

11 Q. Okay. So, then, my question to you is: Did you go
12 back and look at the Ring video to see who delivered these
13 packages?

14 A. I looked at the video of things that we learned. I
15 think one of the videos I would see was a school employee
16 showing up, but I don't know that I recall seeing those
17 packages being delivered.

18 Q. Okay. So is it fair to say the Ring doorbell doesn't
19 capture everything?

20 A. That's correct.

21 Q. Okay. So -- but looking at some of these, they were
22 from Amazon; is that fair?

23 A. I don't know.

24 Q. Okay.

25 MR. WHALEN: Let's zoom in a little bit.

1 BY MR. WHALEN:

2 Q. Okay. Have you ever ordered anything from Amazon?

3 A. Yes, sir.

4 Q. Okay. Does that black-and-blue tape look kind of
5 familiar?

6 A. It does.

7 Q. Okay. Would you agree with me that that's probably an
8 Amazon package.

9 A. It's likely.

10 Q. Okay. And would you agree with me that Amazon, they
11 track everything?

12 A. That, I can't answer to.

13 Q. I mean, they are a behemoth just like Google is,
14 correct?

15 A. They are.

16 Q. Okay. Did you ever go back and look at Mr. Seegan's or
17 Dida Seegan's Amazon account to see what packages were
18 delivered that day?

19 A. I don't recall.

20 Q. Okay. Did you ever go back and find out who were the
21 delivery drivers who delivered it that day?

22 A. No, sir.

23 Q. Okay. And is that something you would normally do?

24 A. If I were conducting the investigation from the
25 beginning, I would. Certainly if I saw those photographs,

1 I'd want to know probably that same night.

2 Q. Okay. Did you ever -- once you took over the
3 investigation, did you ever go back and look into that?

4 A. I don't recall doing that.

5 Q. Okay. When you say you don't recall -- I mean, I know
6 you've done a lot of work in this. But you document
7 everything you did in this case, right?

8 A. Yes, sir.

9 Q. Okay. So if there is nothing in your report indicating
10 you did that, you didn't do it, correct?

11 A. Yeah. When I say I -- I don't recall. I know there
12 was myself and Detective Duncan working side by side during
13 this, so we would each take tasks of things to do. And I
14 can answer for myself. I know I did not personally.

15 Q. Okay.

16 A. I don't know that Detective Duncan would have. I can't
17 answer for her.

18 Q. Okay. And on direct when you started -- when you --
19 you talked about the collective "we investigated" as
20 Carrollton PD. You don't recall ever doing this yourself
21 or Detective Duncan?

22 A. I did not. Correct.

23 Q. Okay. And did Detective Duncan ever go back out and
24 re-canvas the neighborhood?

25 A. I believe we did. I believe there were officers that

1 did go a few houses down each direction to see if we could
2 catch any kind of camera footage.

3 Q. Okay.

4 A. But, again, exactly the date, I don't recall.

5 Q. Okay. When you go to find somebody deceased in a home,
6 is there some --

7 MR. WHALEN: You can take 79 down, please. Thank
8 you.

9 BY MR. WHALEN:

10 Q. -- is there a death notification that has to be made?

11 A. Yes.

12 Q. Okay. And a death notification would be that you
13 call -- sometimes -- obviously Mrs. Seegan knew. But
14 somebody reached out to his mother, correct?

15 A. I don't recall if they did that evening. I, again,
16 wasn't on the scene. I don't know if they called her that
17 evening or the next.

18 Q. The next day, okay.

19 But do you recall that she -- his mother, Dorothy,
20 was called?

21 A. I do know she was made aware. I just don't know the
22 time frame.

23 Q. Okay. And is that standard in law enforcement, that
24 police will then make notification to the next of kin
25 concerning the loss of a loved one?

1 A. Yes.

2 Q. Okay. And that's like -- and if you're trained as a
3 police officer, that's something you know, correct?

4 A. Yes.

5 Q. Okay. And at some point early -- in early February,
6 did Mr. Ashley provide to the Carrollton Police Department
7 a copy of the will and the trust agreement?

8 A. I believe he did.

9 Q. Okay. And then at some point did you come to know of a
10 person named Kerby Keller?

11 A. I did.

12 Q. Okay. And who is Kerby Keller?

13 A. I believe he is Mr. Seegan's nephew.

14 Q. Okay. And did you review the AT&T phone records of
15 Mr. Ashley?

16 A. I believe I did.

17 Q. And did it appear to you -- or did the records show
18 that Mr. Ashley contacted Kerby Keller in February of 2020?

19 A. I believe he did.

20 Q. And they had a phone conversation, correct?

21 A. I believe so.

22 Q. Okay. And then also are you aware that in Mr. Ashley's
23 conversation with Mrs. Seegan, that he told her that she
24 was going to come into about \$3 1/2 million and there was
25 more on the way?

1 A. I don't know the amount was said at that, but I do know
2 he was there to tell her about the money that would be
3 coming.

4 Q. Okay. And, in fact, he did tell her.

5 A. I believe so.

6 Q. Okay. Now, as far as the -- let's talk about the
7 \$20,000, okay? You testified to that.

8 A. Yes, sir.

9 Q. Okay. Were you aware -- well, let me back up.
10 Talked about the two-factor authentication,
11 correct?

12 A. Yes, sir.

13 Q. Okay. Is that what -- do you know that for sure, or
14 that's what you were told?

15 A. Well, I believe we spoke with the bank themselves --

16 Q. Okay.

17 A. -- and learned that that would be the reasoning why.

18 Q. Okay. And did you learn that Mrs. Seegan gave
19 Mr. Ashley the code?

20 A. I don't know if that was done, again, until he was in
21 the home. That, I don't know.

22 Q. Okay. But you do know that she did give him the code?

23 A. I know she gave him the passcodes to -- that was listed
24 out on his -- in his office. It had passcodes for
25 everything.

1 Q. Okay.

2 A. So I don't know about the code from the bank. That, I
3 don't know.

4 Q. Okay. But in order to access, you needed the
5 two-factor authentication, correct?

6 A. Yes, sir.

7 Q. So as you sit here today, you don't know that she gave
8 him the four-digit code or six-digit code?

9 A. Yeah. I don't recall hearing that, that she would have
10 given it to him --

11 Q. Okay.

12 A. -- he wasn't there in the home.

13 Q. Okay. Is that the first time you've heard of that?

14 A. That she would have given it to him?

15 Q. Yes.

16 A. Yes.

17 Q. Okay. When -- you talked about the ME's office.

18 Detective Duncan had this information the night of the
19 death of Mr. Seegan, correct?

20 A. Yes.

21 Q. Okay. About the concerns and everything else, correct?

22 A. I think some of the -- a few of the things, yes.

23 Q. Okay. And so she never relayed that to the medical
24 examiner?

25 A. That, I don't know. I don't believe so, but I don't --

1 I can't say for certain. I wasn't --

2 Q. Okay.

3 A. -- there for the phone call.

4 Q. Is that something that she could have relayed to the
5 medical examiner personnel that came to retrieve the body?

6 A. She could have.

7 Q. Okay. In the course of your investigation -- well, let
8 me do it this way. I'm trying to do it chronologically by
9 topic and I'm --

10 Let's talk about those deleted text messages that
11 we talked about. At some point did you learn in --
12 sometime in April that you were contacted by a private
13 investigator?

14 A. Yes.

15 Q. Okay. And his name was Mr. Freeman, correct?

16 A. Yes.

17 Q. Okay. And the private investigator was hired by
18 Ms. Seegan's family and Kerby Keller, correct?

19 A. That is correct.

20 Q. Okay. And they also had hired a lawyer to probate the
21 estate and the trust, correct?

22 A. I believe so.

23 Q. Okay. And the private investigator had began his own
24 investigation into the situation, correct?

25 A. I believe so.

1 Q. Okay. And so eventually you learned that the private
2 investigator -- he contacted you, correct?

3 A. Yes.

4 Q. Okay. And that was in April of 2020, correct?

5 A. I would assume. I don't know the exact date without
6 looking up the documentation, but it would probably be
7 around then.

8 Q. Okay. And is it -- if you know, had the -- had
9 Mr. Freeman reached out and talked to Mr. Ashley?

10 A. That, I'm not aware.

11 Q. Okay. Is it possible he could have?

12 A. He certainly could have.

13 Q. Okay. And it would make sense, would it not?

14 A. It would.

15 Q. Okay. And so I think when you talked about some of the
16 deleted texts as it related to the words "manslaughter" and
17 "deferred," that was in the end of April, beginning of May,
18 correct?

19 A. Once we -- when they were actually searched, I don't --
20 again, I'd have to look at it. But we didn't learn about
21 that until we actually searched Mr. Ashley's cell phone.

22 Q. No, I understand that.

23 But what were the dates for those searches,
24 approximate dates of those searches? Do you remember?

25 A. Again, I'd have to pull it up to look at it.

1 Q. Okay. Well, we'll find it later, a little bit later.

2 And then you also were asked about -- there were
3 some searches done about can an ME change the autopsy,
4 correct?

5 A. I believe so.

6 Q. And the QTOF, correct?

7 A. Yes, sir.

8 Q. And grand jury, correct?

9 A. Yes, sir.

10 Q. Okay. And those were done on September 3rd, correct?

11 A. I believe so.

12 Q. Okay. And that was your -- that was what was
13 represented to you, they were September 3rd?

14 A. Yes, sir.

15 Q. And September 3rd was a significant date, was it not?

16 A. It was.

17 Q. Okay. Not only was there a search going on at his
18 residence --

19 MR. FINE: Your Honor, may we approach?

20 THE COURT: Yes.

21 (Sidebar conference, off the record.)

22 THE COURT: Okay. I think at this time, ladies
23 and gentlemen, we're just going to take our morning break.
24 Again, please don't discuss the case among yourself or
25 anyone else. Don't do any outside research. We'll take

1 15 minutes, come back, and continue until lunch. Thank
2 you.

3 (The jury exits the courtroom, 10:23 a.m.)

4 THE COURT: Anything further from the government?
5 I think you were going to talk to the witness but -- based
6 on our bench conference but --

7 MS. RATTAN: Yes, your Honor. And nothing else
8 beyond that.

9 THE COURT: Anything else from defense?

10 MR. WHALEN: No, your Honor.

11 THE COURT: Okay. See you back in 15.

12 (Recess, 10:23 a.m. to 10:40 a.m.)

13 (Open court, defendant present, jury present.)

14 THE COURT: Okay. Please be seated.

15 MR. WHALEN: May I proceed, your Honor?

16 THE COURT: Yes.

17 BY MR. WHALEN:

18 Q. Detective Bonner, I want to go back to something I
19 thought about. As it relates to looking at Nest -- you
20 know, neighbors' cameras and things like that, in
21 Carrollton are there -- was that an alley system?

22 A. I believe behind Mr. Seegan's home, yes.

23 Q. Okay. Did you look at any of the garbage routes or any
24 of the trash routes for Carrollton to see if they were
25 running that day around that time?

1 A. I don't believe I did.

2 Q. Okay. Did anybody?

3 A. That, I don't -- I don't believe so, but I don't know
4 for sure.

5 Q. Okay. And I want to get back to the issue of these
6 searches.

7 The letter went to Mr. Villarreal was on May 20th;
8 is that correct?

9 A. I believe so.

10 Q. Okay.

11 MR. WHALEN: If we could pull up 122 -- is that
12 it?

13 Okay. This is the autopsy. If we can go to 112A
14 first.

15 Okay. And if we can zoom in on that.

16 BY MR. WHALEN:

17 Q. That has a postmark of May 20 of 2020; is that correct?

18 A. It does.

19 Q. Okay.

20 MR. WHALEN: And if we can, then, go to 122,
21 please.

22 And go to the -- I'm not sure what page. Try 2 or
23 3, please -- oh, 4. I'm being told 4.

24 BY MR. WHALEN:

25 Q. Okay. If you look at page 4 -- do you see the

1 toxicology on page 4?

2 A. Yes, sir.

3 Q. Okay. Do you see "Drug Screen (QTOF)"?

4 A. Yes.

5 Q. Okay. And so that was contained in the medical
6 examiner's report, correct?

7 A. Yes.

8 Q. Okay. And just so -- as far as someone asking for
9 someone's autopsy, that is a public record, is it not?

10 A. I believe it is.

11 Q. Okay. So anybody from the public, if they have the
12 correct information, can make a request of the Medical
13 Examiner's Office and get a copy of an autopsy, correct?

14 A. I believe so.

15 Q. Okay.

16 MR. WHALEN: We can go back to the first page of
17 the autopsy report.

18 Keep scrolling down, please.

19 Let's go to page 3.

20 I guess we're going to be on page 4 -- 5. If we
21 can go to 5.

22 BY MR. WHALEN:

23 Q. Okay. If we look at the section called Conclusions --
24 okay. And she signed this on April 1st of 2020, correct?

25 A. Yes.

1 Q. Okay. In Conclusions it says based on the case history
2 and findings, she concludes it was a contact gunshot wound
3 to the head and the findings and available investigative
4 information are consistent with this being self-inflicted
5 and deliberate.

6 Do you see that there?

7 A. I do.

8 Q. Okay. So she is referencing investigative information,
9 correct?

10 A. Correct.

11 Q. Okay. And that could have been provided by Detective
12 Duncan, correct?

13 A. It could have been, yes, sir.

14 Q. Okay.

15 MR. WHALEN: You can take that down. Thank you.

16 BY MR. WHALEN:

17 Q. Okay. Let's go back to September 3rd. It was kind of
18 a busy day, correct?

19 A. Yes, sir.

20 Q. Okay. And on September 3rd you did have contact with
21 Mr. Ashley, did you not?

22 A. I did.

23 Q. Okay. And in that contact with Mr. Ashley, you did
24 tell him that there was something found in Mr. Seegan's
25 system, correct?

1 A. I -- I don't know that I did. I don't know that I
2 actually made that statement to him.

3 Q. Okay. But you also, in that contact, informed him that
4 it was an ongoing investigation, correct?

5 A. I did.

6 Q. Okay. And also in that interview, did you -- when
7 you --

8 MR. WHALEN: I'll withdraw that question, your
9 Honor.

10 BY MR. WHALEN:

11 Q. During that contact with him, you made some statements
12 to him; and I want to just ask you about those. Did you
13 make a statement to him during your contact that everything
14 we looked at is suicide?

15 A. I did make that statement.

16 Q. Okay. And did you also make a statement to him during
17 that contact that the medical examiner's decision is
18 conclusive?

19 A. I don't believe I made that statement. I --

20 Q. Okay.

21 A. -- stated that the medical examiner ruled it a suicide.

22 Q. Okay. But you agree with me you made the statement
23 everything we looked at is suicide, correct?

24 A. I do believe I made that statement.

25 Q. Okay. And also would you agree with me during that

1 contact you indicated that you were looking at all the
2 options, correct?

3 A. I believe so.

4 Q. Okay. And that was in response to a topic regarding
5 whether or not Mr. Ashley assisted in suicide, correct?

6 A. I did broach that subject.

7 Q. Okay. And your response was, "We're looking at all our
8 options"?

9 A. I don't know if I worded it exactly like that but may
10 have.

11 Q. Okay. So the subject of assisted suicide did come up?

12 A. It did.

13 Q. Okay. And you would agree with me that in the state of
14 Texas assisted suicide is a Penal Code violation?

15 A. If I may correct that?

16 Q. Sure.

17 A. I don't believe I said assisted suicide when I -- I
18 think I believed that -- the possibility of Mr. Seegan
19 committing suicide with Mr. Ashley in the home.

20 Q. Okay. But was that, the words "assisted suicide,"
21 brought up during that contact?

22 A. I don't believe it was.

23 Q. Okay. Or the idea that Mr. Ashley helped him commit
24 suicide?

25 A. Again, I don't believe I made that statement.

1 Q. Okay. And so then if he made search -- so then we have
2 searches made on September 3rd. It's the same day that you
3 had contact with him, correct?

4 A. That is correct.

5 Q. Okay. Now let's talk about the firearm, okay? You
6 learned -- we learned and you learned that Mr. Frame was
7 the original purchaser of that firearm, correct?

8 A. Yeah. I forget his exact name but, yes, we contacted
9 the person who was the last purchaser.

10 Q. Okay. And did you try to determine from him who he
11 sold his numerous firearms to?

12 A. We did.

13 Q. And he could not tell you, correct?

14 A. That is correct.

15 Q. And he also indicated he may have put them on a
16 website; is that correct?

17 A. That is correct.

18 Q. And did you do any efforts to contact the website to
19 see if there was any history of that?

20 A. We did, along with the FBI.

21 Q. Okay. And did you do any photo lineup with him?

22 A. No.

23 Q. Okay. You didn't show him any pictures to say whether
24 or not it could be a group of people that he sold it to?

25 A. Correct. We did not.

1 Q. Okay. And did you determine how -- well, let me ask
2 you this: Did he keep any records of those sales?

3 A. Oh, I believe we asked the gentleman if he had any
4 records of that; and I think he informed us he did a search
5 himself through the websites and could not find anything
6 and did not have any of his own as well.

7 Q. Okay. Now, you testified that -- and I think the word
8 you used is -- I think you made assume -- you said, well,
9 you're assuming that Mr. Ashley had a firearm with him on
10 February 19th, 2020, correct?

11 A. We believe so, yes, sir.

12 Q. Okay. But you also learned that he had a firearm --
13 always carried a firearm in his backpack, correct?

14 A. We did learn he did often keep one in there.

15 Q. And when you searched his home, you found a firearm in
16 the backpack?

17 A. That is correct.

18 Q. Okay. But you don't have any direct evidence or any
19 knowledge that that firearm found at Mr. Seegan's house was
20 in that backpack, do you?

21 A. We do not.

22 Q. And we saw the photographs of the ammunition that was
23 found at his house, correct?

24 A. Yes, sir.

25 Q. Would you agree with me they are pretty distinctive?

1 A. They are.

2 Q. Okay. And as far as 9-millimeter ammunition, was that
3 the only 9-millimeter ammunition that you found in that gun
4 case?

5 A. No, we located lots of ammunition; but I don't know if
6 it was only that model of ammunition inside that was loose
7 in the -- in the gun case.

8 Q. And that ammunition was different than what was found
9 in Mr. Seegan's house?

10 A. That is correct.

11 Q. Okay. So if there was testimony that they were the
12 same, that's not true, correct?

13 A. They are both 9-millimeter but not the same make.

14 Q. Okay. They're not the same make. Okay.

15 And just so we're clear, you did not find any
16 ammunition of the same brand at Mr. Ashley's house that you
17 found in Mr. Seegan's house, correct?

18 A. I believe that is correct.

19 Q. Okay. Now, in the course of your investigation, you
20 reached out to Google and did a search warrant for Google;
21 is that correct?

22 A. I believe we did.

23 Q. Okay. And in your search of the house, is it true that
24 there were other cameras located in the kitchen and in the
25 living room?

1 A. Yes, sir.

2 Q. Okay. And did you find any videos or activation from
3 the kitchen Nest camera or the living room camera?

4 A. None that I recall. I know from the detectives who
5 responded the evening of Mr. Seegan's death, they viewed
6 all the video footage and, again, tried to mark what they
7 could to save.

8 And so I, unfortunately, didn't get to see -- by
9 the time it came to me, all the evidence that would have
10 been on there was already off their system and gone; so I
11 just don't have any way of knowing.

12 Q. Okay.

13 A. But they didn't see anybody else, as far as I'm aware,
14 coming or going besides Mr. Ashley.

15 Q. Okay. And are those -- those cameras were
16 sound-activated and motion-activated as well?

17 A. That, I don't recall a hundred percent, if they are
18 both or just one.

19 Q. Okay.

20 Okay. Let's talk about your experiment that you
21 did in the home, correct?

22 A. Yes, sir.

23 Q. All right. Now, we saw some videos, correct?

24 A. Yes, sir.

25 Q. Okay. And there's no videos of the actual camera being

1 activated, correct?

2 A. Of -- from the day of Mr. Seegan's death?

3 Q. Right.

4 A. Correct. We know we did not, unfortunately, get that
5 video saved.

6 Q. Okay. So the video that was in the garage, you guys --
7 there was nobody that had a body cam on or -- to show it
8 come on; is that correct?

9 A. Correct. They're just viewing it. They don't --
10 unfortunately, didn't capture the screen itself to show it
11 activating.

12 Q. Okay. And at that time you -- during the course of
13 this, you had a -- did you have a decibel meter level?

14 A. That, we did.

15 Q. Okay. And before you got there, you had to recalibrate
16 the Nest camera in the garage, correct?

17 A. Yes.

18 Q. Okay. And it was your belief that because -- somebody
19 had changed the settings on it?

20 A. Yes. I believe it had lost service at some point in
21 between the time we got there and the time of Mr. Seegan's
22 death, so it was no longer -- so we had to turn it back on
23 and get it operating again.

24 Q. Okay. And so did anybody on the night of Mr. Seegan's
25 death determine what the settings were of the camera that

1 evening?

2 A. That, I -- I don't believe so.

3 Q. Okay. So when you went to redo the -- do your
4 experiment, how did you determine what settings to put it
5 on?

6 A. I believe we learned, once we activated it, that --
7 once you turn it on for sound activation, it automatically
8 would set to 75 percent sensitivity for sound activation.

9 Q. Okay. Do you know whether that was the setting on the
10 night of -- or the day of the 19th?

11 A. I do not know that.

12 Q. Okay. So you're just going off the assumption that
13 they're the same?

14 A. Well, we weren't assuming they were exactly the same.
15 We were just going off of once we activated it, and then we
16 intentionally manipulated the sensitivity to do further
17 testing.

18 Q. Okay.

19 A. But I can't -- I can't say they were the same on the
20 night or the day of Mr. Seegan's death.

21 Q. Okay. And so when you say you manipulated the
22 settings, you changed the settings throughout the day to a
23 point where then it finally registered, correct?

24 A. It registered on our first test with any kind of sound
25 activation.

1 Q. Okay. And did you -- but you didn't take any video of
2 that, of the garage Nest cam, correct?

3 A. I believe we had a camera -- no, we did not have a
4 video inside the garage other than the Nest cam itself.

5 Q. Okay. And you said you dropped books and you closed
6 car doors and things of that nature, correct?

7 A. Yes, sir.

8 Q. Okay. Did you videotape those scenarios or anything
9 like that?

10 A. Yes, we did.

11 Q. Okay. And did you use -- at 75 decibels, did you do
12 any research on what other things can register above that
13 sound level?

14 A. We set it at 75 percent sensitivity; but as far as
15 decibels itself, we did not check and study what multiple
16 different items would be. We just ran these four tests.

17 Q. Okay. Did you do anything whether or not a garbage
18 truck going down the alley or a delivery truck going down
19 the alley could set it off?

20 A. We did not.

21 Q. And when you did your experiment, did you have -- were
22 there cameras in the living room and the kitchen as well?

23 A. I don't recall if those were -- if we set them to be
24 active or not. I know we were focused solely on the garage
25 camera.

1 Q. And you would agree with me that the conditions in the
2 room were different than on the 19th?

3 A. I believe the flooring was removed.

4 Q. Okay. And so the flooring removed -- did you have a
5 wood floor, a plywood wood floor?

6 A. Correct.

7 Q. Okay. And do you know if the flooring that was removed
8 had a padding underneath it or any absorption in it?

9 A. I wasn't there to see them remove it. I don't -- don't
10 know.

11 Q. Okay. And would you agree with me that with the
12 flooring removed, that could change the acoustics in the
13 room?

14 A. It's a possibility.

15 Q. And as part of your investigation into a suspicious
16 death or a homicide, you also look to determine if there's
17 any alternative suspects, correct?

18 A. We follow the evidence, yes, sir.

19 Q. Okay. And in the course of this, did you learn that
20 there was potential or possible marital difficulties
21 between Jim and Dida?

22 A. We did.

23 Q. Okay. And you learned that from several -- a couple
24 different people, correct?

25 A. Yes.

1 Q. Okay. And one of the people that you learned it from
2 was related to or friends with or the brother of Lawrence
3 Ahee, correct?

4 A. I believe so.

5 Q. Okay. And Lawrence Ahee had passed away, correct?

6 A. Yes, sir.

7 Q. Okay. And Lawrence was a close friend of Jim, correct?

8 A. I believe so.

9 Q. Okay. And you learned from investigating Lawrence and
10 in talking to his brother, there was some suggestion or
11 history that if anything happened to me, look at Dida,
12 correct?

13 A. I do believe he made that statement.

14 Q. Okay. And then you also learned through the text
15 messages or the phone of Mrs. Seegan -- there are some
16 individuals you contacted as a result of that, correct?

17 A. That is correct.

18 Q. And there was some suggestion that there may have been
19 some flirting or inappropriate comments, correct?

20 A. Yes, sir.

21 Q. Okay. And there was also some suggestion that she was
22 complaining about her husband, correct?

23 A. I believe so.

24 Q. Okay. And you talked to those folks, correct?

25 A. I was able to get in touch with one of them. The other

1 gentleman I could not reach.

2 Q. Okay. So suffice it to say there was some evidence
3 through your investigation that there was some marital
4 difficulty, correct?

5 A. Yes, sir.

6 Q. And they slept in separate beds, correct?

7 A. That is what Dida informed us, yes, sir.

8 Q. Okay. Now, there was nothing taken from the house on
9 the 19th, correct?

10 A. That, I don't recall. I don't believe so, but I don't
11 recall a hundred percent without looking at our evidence
12 log.

13 Q. Okay. Well, Dida never came in and said, "Well, this
14 is missing." The only thing she said -- she talked about
15 was the \$20,000, correct?

16 A. I believe that was the day or two after, yes, sir, two
17 days after or so.

18 Q. Now, you talked about the resignation letters, the
19 will, and the trust, correct?

20 A. Yes, sir.

21 Q. And you made a conclusion that -- you had the opinion
22 that Mr. Ashley must have done that because the heat was
23 on, correct?

24 A. Yes.

25 Q. Okay. Well, you hadn't confronted him with anything

1 or -- until September, correct?

2 A. I believe he did -- there was contact with him maybe a
3 week after and even -- well, the night of on the phone and
4 then the week after.

5 Q. Okay. And by this time there is a lawyer involved,
6 correct?

7 A. For Mrs. Seegan?

8 Q. For Mrs. Seegan, correct?

9 A. I believe so.

10 Q. Okay. And then he signed relinquishing his rights
11 under the trust and the will, correct?

12 A. I believe so.

13 Q. Okay. And so -- but he had told Dida about the will
14 and the trust, correct?

15 A. I believe so.

16 Q. Okay. And she -- he told her that the day after
17 Mr. Seegan's death, correct?

18 A. That, I can't attest to. I'm not sure what day.

19 Q. Okay. Was it before the 27th when he resigned?

20 A. Yes, I believe so.

21 Q. Okay. So he informs her of the fact there is a will
22 and a trust, correct?

23 A. Yes.

24 Q. Okay. And so they hire -- and so Dida hires a lawyer
25 on her own, correct?

1 A. I believe her and Mr. Keller agreed to hire a lawyer.

2 Q. Okay. And it wasn't a lawyer that Mr. Ashley directed
3 them to, correct?

4 A. I don't believe so.

5 Q. Okay. And so that lawyer then approaches Mr. Ashley
6 and says, "Hey, will you resign these posts?"

7 And he says, "Yes."

8 A. As far as I'm aware.

9 Q. Okay. At this point Carrollton PD hasn't accused him
10 of anything at this point, correct?

11 A. That is correct.

12 Q. The autopsy is not even done yet, correct?

13 A. Correct.

14 Q. Now, you talked about this calendar entry about "Keith
15 blood draw," correct? Do you remember talking about that?

16 A. Yes, sir.

17 Q. You would agree with me Mr. Seegan, from what you
18 learned, was an intelligent person, correct?

19 A. Yes, sir.

20 Q. You said he was detail-oriented, correct?

21 A. Yes.

22 Q. Okay. And he had life insurance before, correct?

23 A. As far as I'm aware.

24 Q. Yeah. So he had to undergo -- well, let me back up.

25 Life insurance that was sold to him by Mr. Ashley, correct?

1 A. Yes, sir.

2 Q. And it's true, based on your investigation, is it not,
3 that he had blood tests done by a third party? Correct?

4 A. I don't recall exactly when his first physical would
5 have been done or how it was done.

6 Q. Okay. But if the Midland National records -- or
7 there's evidence from Midland National they use a
8 third-party system, you wouldn't disagree with that, would
9 you?

10 A. I would not.

11 Q. And so Mr. Seegan knew that in order to get life
12 insurance, a third party is going to do that, correct?

13 A. To do the physical?

14 Q. Yes, do the physical.

15 A. I believe he would be made aware of that.

16 Q. Okay. And, once again, he was a smart, detail-oriented
17 person?

18 A. Yes, sir.

19 Q. Now let's talk about -- you said you did this note
20 comparison, correct?

21 A. Yes, sir.

22 Q. Okay. The note that was found in Mr. Seegan's home was
23 a Word document, correct?

24 A. I believe it was.

25 Q. Okay. Well, if Mr. Withers testified it was a Word

1 document, you would trust detective Withers?

2 A. I do trust him.

3 Q. Okay. So that's a Word document.

4 And then you said you found something on his
5 phone, correct?

6 A. On Mr. Ashley's --

7 Q. Mr. Ashley's phone.

8 A. Yes, sir.

9 Q. Okay. And so you're going on the conclusion that
10 because there is syntax errors and punctuation errors, they
11 are one and the same, correct?

12 A. I just -- again, they would be very similar, yes, sir.

13 Q. Okay. And all you're saying is that it's similar, but
14 you don't know who wrote either -- you don't know who wrote
15 the note found in Mr. Seegan's home, do you?

16 A. Again, through our investigation we believe it to be
17 Mr. Ashley. But, again, to say did I see who wrote the
18 note, no.

19 Q. Okay. And if there is something on a phone, you would
20 agree with me that there is no way to cut and paste from a
21 phone to a computer.

22 A. You can certainly send it via email and different ways,
23 Bluetooth it and things like that.

24 Q. Okay. And, of course, there was a search done of the
25 computer, correct?

1 A. Yes, sir.

2 Q. Okay. And there was no suggestion or no emails found
3 that were sent to that computer from Mr. Ashley that day
4 with that verbiage, correct?

5 A. Correct.

6 Q. Okay. Let's talk about -- you had testified that you
7 believed that there was a puncture mark on Mr. Seegan's
8 arm, correct?

9 A. Yes, sir.

10 Q. Okay. And -- or what could be determined a ligature
11 mark, correct?

12 A. From one of the photos, it did appear to be.

13 Q. Okay. And you're just basing that off the photos,
14 correct?

15 A. Correct.

16 Q. Okay. You would agree with me that Dr. Ogden viewed
17 the body doing the autopsy?

18 A. Yes.

19 Q. And you would agree with me that as part of a medical
20 examiner's determination of cause of death, they are going
21 to check the body and look for those types of things,
22 correct?

23 A. Yes, sir.

24 Q. Okay. And you would agree with me that there -- in her
25 autopsy there is nothing to indicate that she observed any

1 type of puncture marks or ligature marks on his body?

2 A. None were noted.

3 Q. Okay. And do you think it's reasonable that if she did
4 see them, she would note them?

5 A. I do.

6 I approached her later with the photos, and she
7 basically made the statement that she could not rule it out
8 but --

9 Q. Okay.

10 A. -- could not rule it in, either way.

11 Q. Okay. Let's talk about that. You sat down and met
12 with her, correct?

13 A. I did.

14 Q. And what date did you sit down and meet with her?

15 A. That, I don't recall without --

16 Q. All right.

17 A. -- looking at my notes.

18 Q. I'm going to -- I'm going to come back to that because
19 I want to talk about some other stuff first.

20 When -- you met with Mr. Shteyngart, correct?

21 A. Yes, sir.

22 Q. Okay. When did you meet with him?

23 A. Again, the exact dates I don't recall. Myself and
24 Detective Duncan met with him.

25 Q. Okay. And same with Denny Willmon, correct?

1 A. I believe so.

2 Q. Okay. And Mr. Greening, correct?

3 A. Again, I don't know if I personally met with him or
4 Detective Duncan did; but one of us may have met with him.

5 Q. And so would it be fair to say that none of those
6 individuals had had any contact with the Carrollton Police
7 before you contacted them? Correct?

8 A. Correct. Not that I'm aware.

9 Q. Okay. You are the ones that made the initial contact
10 with those individuals, correct?

11 A. I believe so, yes, sir.

12 Q. Okay. And in the -- we talked about the backpack, and
13 you said there was a Gift Letter -- you talked about the
14 Gift Letter, correct?

15 A. Yes, sir.

16 MR. WHALEN: If we can go to 114.

17 Can you go to the next page.

18 The next page, please.

19 BY MR. WHALEN:

20 Q. Okay. Do you see 114, page 4?

21 A. Yes, sir.

22 Q. Okay. And do you see -- what's the title of this?

23 A. Promissory Note.

24 Q. Okay. And who is the lender?

25 It's the fourth line down from the top.

1 A. The borrower there?

2 Q. Okay. Let's start with the borrower. Who is the
3 borrower?

4 A. Borrower is KBKK.

5 Q. Okay. Do you see who the lender is?

6 A. Oh, sorry, there it is. It's JES2, LLC.

7 Q. Okay. And is that an LLC created by Mr. Seegan?

8 A. I believe so.

9 Q. Okay. And he owns -- it owned his mother's house or
10 his brother's house, correct?

11 A. I believe so, yes, sir.

12 Q. Okay.

13 MR. WHALEN: We can go to the next page.

14 And keep going.

15 BY MR. WHALEN:

16 Q. All right. And that was signed -- appears to be signed
17 November 26th of 2019, correct?

18 A. Yes, sir.

19 Q. Okay.

20 MR. WHALEN: We can go to the next page.

21 BY MR. WHALEN:

22 Q. And does that appear to you to be an amortization
23 schedule?

24 A. Yes, sir.

25 Q. Okay.

1 MR. WHALEN: You can take that down for a second.

2 BY MR. WHALEN:

3 Q. And so in -- we're going to find what we're looking
4 for.

5 But you saw there was a Promissory Note and there
6 was a bunch of other documents, Promissory Notes and -- in
7 there, right?

8 MR. WHALEN: If we can go to 114, page 10, please.

9 BY MR. WHALEN:

10 Q. All right. Do you see 114, page 10, there?

11 A. Yes, sir.

12 Q. Okay. And, once again, that's entitled "Promissory
13 Note"?

14 A. Yes, sir.

15 Q. And borrower and lender are the same?

16 A. Yes, sir.

17 Q. See that?

18 And do you see the effective date of that
19 Promissory Note?

20 A. Yes, sir.

21 Q. And what's that date?

22 A. June 20th of 2016.

23 Q. Okay.

24 MR. WHALEN: And if we go to the next page.

25 And the next page.

1 BY MR. WHALEN:

2 Q. Okay. And do you see that there are signatures on it
3 from June 1st of 2016?

4 A. Yes, sir.

5 Q. Okay. And if we go to the next page, there is an
6 amortization schedule as well?

7 MR. WHALEN: You can take that down.

8 BY MR. WHALEN:

9 Q. Is that correct? There is an amortization schedule?

10 A. Yes, sir.

11 Q. Okay. So in the course of the investigation you found,
12 Promissory Notes, correct?

13 A. Yes, sir.

14 Q. Okay. So going back to -- you had a meeting with
15 Dr. Ogden, correct?

16 A. Yes, sir.

17 Q. And that was on September 10th, correct?

18 A. I believe so. I don't have the exact date but --

19 Q. Okay. If I'm looking at your note and it says
20 September 10th, is that --

21 A. That would be fair, yes, sir.

22 Q. Okay. Now, you said that she -- she also said she
23 couldn't tell you what the markings were, correct?

24 A. Correct. She couldn't rule them as -- rule them out or
25 in as what we were to believe them to be.

1 Q. Okay. And so -- and then at that meeting -- who all
2 was present at that meeting?

3 A. I believe it was just myself, Detective Chevalier
4 (phonetic spelling), and Dr. Ogden.

5 Q. Okay. Was any representatives from the D.A.'s Office
6 with you or anything like that?

7 A. No, sir.

8 Q. Okay. And during the course of this, during this
9 meeting -- how long did this meeting take place?

10 A. Oh, it was really short, ten minutes maybe.

11 Q. Okay. Had you sent her information ahead of time about
12 your investigation?

13 A. Possibly. I know we met -- I think we would have
14 brought some of our documentation in and informed her of
15 what we were looking at at that moment.

16 Q. Okay.

17 A. But I don't recall if I sent it to her or not.

18 Q. Okay. Did you discuss with her the etomidate issue?

19 A. Yes.

20 Q. Okay. And so in that meeting you talked to her about
21 the etomidate, you talked to her about this puncture
22 mark -- you believed to be a puncture mark and you believed
23 to be a ligature mark, correct?

24 A. It was my belief as a possibility.

25 Q. Okay. And what she said to you, being the medical

1 doctor, she could not say what those markings were?

2 A. She said she couldn't rule definitively.

3 Q. Okay. And she couldn't make a determination, correct?

4 A. Correct.

5 Q. And then that did not change so she -- she did change
6 her opinion from suicide to unknown, correct?

7 A. Yeah, undetermined or unknown, yes, sir.

8 Q. Okay. So she still -- would you agree with me at that
9 point she still -- that would be a doubt about what
10 happened, correct?

11 A. Yes, sir.

12 Q. Okay. Now, I think you testified that it's your belief
13 or -- you know, you talked about motive, correct?

14 A. It was brought up, yes, sir.

15 Q. Okay. And it is your belief that Mr. Ashley motive was
16 to gain access to money, correct?

17 A. Yes, sir.

18 Q. Okay. And you also understand he wasn't the
19 beneficiary of any will or any trust, correct?

20 A. He was not the beneficiary. Correct.

21 Q. Okay. And so based on your evidence, you believe that
22 that was his motive, correct?

23 A. Yes, that coupled with the kind of hiding of what had
24 been happening leading up to that and then gaining access
25 to money certainly.

1 Q. Okay. So would you agree with me that if someone wants
2 to get away with something, you don't want to be detected?
3 Is that fair?

4 A. Certainly.

5 Q. Okay. And so you wouldn't tell the wife about a will
6 and a trust and she's coming into \$3 1/2 million, would
7 you?

8 A. Well, I think it's, again, part of manipulation and how
9 it's worded.

10 What we learned from Mrs. Seegan, the way it was
11 worded was to not inform Mr. Keller about his portion of
12 the money that was coming in as possibly a way to squeeze
13 him out. And then -- so this, in turn, made Mrs. Seegan
14 very suspicious of the way Mr. Ashley was acting.

15 Q. But you testified earlier that he called Mr. Keller.

16 A. He did.

17 Q. Okay. So if you're trying to squeeze somebody out,
18 you're not going to call him, are you?

19 A. You would be surprised.

20 Q. Okay. So -- so we know that he tells Mrs. Seegan about
21 the money. He tells her about the will. He tells her
22 about the trust.

23 A. Correct.

24 Q. He talks to the lawyer. He resigns his position.

25 A. Yes, sir.

1 Q. He knows there is a Ring doorbell.

2 A. Yes, sir.

3 Q. He knows that Midland National records phone calls.

4 A. That, I'm not aware.

5 Q. Okay. And it's still your -- but it's still your
6 belief that he was trying to take the proceeds of the
7 trust?

8 A. I think initially.

9 And as, again, questions were asked by Mrs. Seegan
10 and as he realized possibly things that were going to be
11 happening with the lawyer involved, he did not want -- he
12 couldn't stay involved that deep.

13 Q. But if you're -- but there was some suggestion -- or
14 maybe you suggested it or Mr. -- by your questioning
15 suggested that there was some type of forgery on documents,
16 correct?

17 A. Correct.

18 Q. Okay. So if there is forgery on documents -- and we
19 also learned that Mrs. Seegan didn't know much about the
20 finances, correct?

21 A. That is correct.

22 Q. And she didn't know much about that there was a trust,
23 correct?

24 A. That, I'm not -- I don't know -- she didn't know much
25 about any of the finances, so I can't say exactly what she

1 knew about the trust or not but --

2 Q. Okay. So if we know she doesn't know much, would you
3 agree with me it doesn't make sense to tell her about it?

4 A. No, I would not.

5 MR. WHALEN: Could we have a moment, your Honor?

6 THE COURT: Yes.

7 (Off-the-record discussion among counsel for
8 defendant.)

9 BY MR. WHALEN:

10 Q. Okay. You mentioned -- there was some talk about that
11 Mr. Seegan didn't like guns or something to that effect,
12 correct?

13 A. Correct.

14 Q. Okay. And isn't it true that at some point that Dida
15 found a receipt for a shotgun in the house?

16 A. She did.

17 Q. Okay. So there was some evidence that he had purchased
18 a firearm at some point, correct?

19 A. I don't know that the receipt stated he purchased it.

20 And Dida couldn't -- if I'm remembering
21 correctly -- could not recall -- she never saw the gun, but
22 she just said she searched and came across that. I know it
23 was something several years old.

24 But she -- since she had known Jim, she had never
25 seen a firearm in the home or ever him --

1 Q. And also during the course of your investigation, was
2 there some evidence or information you received regarding
3 either Jim giving guns to Larry or Larry giving guns to
4 Jim?

5 A. There were some statements made. I don't think that --
6 I think Larry was passing the firearms down to his
7 children. And we knew that there were firearms in his home
8 when he passed away apparently. So we certainly asked,
9 because they were friends, if any of those firearms did
10 come to Jim.

11 Q. Okay. Or that Jim gave them to Larry?

12 A. He may have, yeah. I don't -- again, that's a
13 possibility; but I don't recall a hundred percent.

14 Q. Also, the other thing, too, on this, you saw evidence
15 about the etomidate at the hospital, correct, about the --
16 there was a record of it?

17 A. Yes, sir.

18 Q. Okay. So if I'm a nurse going into the Pyxis, I know
19 that there is going to be a record created of me retrieving
20 it, correct?

21 A. Correct.

22 Q. And every nurse would know that, correct?

23 A. They should, yes, sir.

24 Q. Okay. And you talked about that you had been on a
25 bunch of, you know, suicides in the past and everything

1 else, correct?

2 A. Yes, sir.

3 Q. Okay. And it's just your opinion that, you know, it
4 wouldn't have happened -- you know, the gun wouldn't land
5 the way it did, his arm wouldn't land the way it is,
6 correct?

7 A. I believe this is a very low probability.

8 Q. Okay. But you don't -- you didn't do any re-creations
9 or studies of that to determine whether or not -- that's
10 just your opinion.

11 A. That's correct.

12 Q. Okay. But you don't have any -- other than your
13 experience, you don't have any independent evidence to
14 show, okay, that's the way it happened or could have
15 happened?

16 A. Correct.

17 Q. Okay. And another thing is that if -- Mrs. Seegan
18 didn't know about the trust or knew very little about the
19 finances and didn't know anything about insurance, correct?

20 A. As far as I'm aware, she was -- did not have much
21 knowledge on it.

22 Q. Okay. And if I'm a trustee of a trust, I could -- if
23 somebody didn't know a trust existed -- let's say if -- let
24 me give you a hypothetical, okay?

25 A trust gets created, correct?

1 A. Yes, sir.

2 Q. And nobody knows it was created, correct?

3 A. Okay.

4 Q. And we make insurance be part of the trust, correct?

5 A. Okay.

6 Q. I could do all of that -- I could file the claim -- I

7 could get a Death Certificate, file the statement of claim,

8 and say I'm the trustee because I have the trust document;

9 and I could get paid for that and nobody would ever know,

10 correct?

11 A. If you created it?

12 Q. Yep.

13 A. I believe so, yes, sir.

14 Q. Okay. So would you agree with me that if I'm trying to

15 do that, if the ultimate motive is that, I'm not going to

16 put my name and phone number in a note?

17 A. I wouldn't agree with that.

18 Q. Okay. So you wouldn't agree with that it would be --

19 make more sense not to notify the entire family of your

20 name and number if your ultimate goal was to try to steal

21 money from people?

22 A. I would not agree, based off of manipulation.

23 Q. And did you, as part of your investigation, review the

24 ER records from the patient back on the 19th?

25 A. I believe so, yes, sir.

1 Q. And that patient did exist, correct?

2 A. Yes, sir.

3 Q. And there were records for her, correct?

4 A. Yes, sir.

5 Q. Okay. And did you see the ER records or just her
6 admission records?

7 A. I don't recall which records they were actually labeled
8 as, but it was a very large set of paperwork involving her
9 treatment there for that -- for that event.

10 Q. So when we look at that entry on the Pyxis and there is
11 a patient there, that was consistent with what happened
12 that day, correct?

13 A. Yes, sir.

14 Q. Okay. And also the hospital has a system -- a badge
15 system. Did you learn that?

16 A. To be able to --

17 Q. To access the Pyxis.

18 A. Yes, sir.

19 Q. Okay. But also to get in and out of certain areas of
20 the hospital, correct?

21 A. I believe so.

22 Q. Okay. And did you analyze those records?

23 A. I don't believe we had those records.

24 Q. Okay. And did you learn through your investigation
25 that Mr. Ashley, other than the 19th, worked two more times

1 after that?

2 A. I believe so.

3 Q. Okay. And did you look into the days he worked and the
4 types of cases he worked?

5 A. No. I think we checked specifically around etomidate
6 being used and then the timings of Mr. Ashley being there
7 as well.

8 Q. Okay. And the only thing that you came up with was
9 December 19th of -- or December of 2019, correct?

10 A. Yes, sir.

11 Q. All right. And that patient was intubated in the ER,
12 correct?

13 A. I believe so.

14 Q. Okay. And that would have required etomidate, correct?

15 A. Yes, sir.

16 Q. And did you look at his E*TRADE account?

17 A. Mr. --

18 Q. Mr. Seegan's E*TRADE account.

19 A. I believe I would have looked at it, yes, sir.

20 Q. Okay. And were you aware that at some point -- or if
21 you know -- that he was working to make the trust the
22 beneficiary of his E*TRADE account?

23 A. That, I don't recall a hundred percent.

24 Q. Okay. Did you ever look at the trust account to see
25 what assets were named to the trust?

1 A. I'm sure I did. Again, it's been awhile since I've
2 looked at it. Myself and Detective Duncan worked it side
3 by side. She handled the majority of the financial
4 portion --

5 Q. Okay.

6 A. -- of the case, and I went more of the death portion.

7 Q. And would you agree with me it was more than just the
8 life insurance?

9 A. Again, I'd have to look at it to say a hundred percent.

10 MR. WHALEN: Just one moment, your Honor.

11 THE COURT: Yes.

12 (Off-the-record discussion among counsel for
13 defendant.)

14 BY MR. WHALEN:

15 Q. Okay. Detective Bonner, I know we've talked about it
16 but just -- after your meeting with Dr. Ogden, the best she
17 could do was say "unknown," correct?

18 A. That is correct.

19 MR. WHALEN: I'll pass the witness.

20 THE COURT: Additional questions?

21 MR. FINE: Yes, your Honor.

22 REDIRECT EXAMINATION OF BRANDON BONNER

23 BY MR. FINE:

24 Q. Detective Bonner, the defense mentioned does this make
25 sense and does that make sense and a lot of that, correct?

1 A. Yes, sir.

2 Q. Well, the reality about this particular defendant is
3 he's not your run-of-the-mill robber or murderer. Is that
4 fair to say?

5 A. Correct.

6 Q. I mean, he has a specialized set of skills. Have you
7 ever seen anybody with this set of skills like this before?

8 A. With this -- involved in this kind of crime, no, sir.

9 Q. He's got medical skills, correct?

10 A. Correct.

11 Q. He has access to etomidate, correct?

12 A. Correct.

13 Q. He has access to firearms?

14 A. Correct.

15 Q. He has police background?

16 A. Correct.

17 Q. He has financial background?

18 A. Correct.

19 Q. I mean, if you were going to put together the perfect
20 person to facilitate this crime, it would be Keith Ashley,
21 correct?

22 A. Certainly.

23 Q. And the reality is this wasn't some slam dunk, oh, this
24 is very easy to see what happened here. It took a lot of
25 work to figure this out, correct?

1 A. That's very true.

2 Q. And is that consistent with somebody who is very good
3 at concealing their crimes?

4 A. Yes, sir.

5 Q. And, in fact, did he conceal this Ponzi scheme for
6 years, to the point where several individuals who are very
7 intelligent had no idea they were being scammed out of
8 money?

9 A. That is correct.

10 Q. And so he had been getting away with that for years,
11 correct?

12 A. Yes, sir.

13 Q. And so is it reasonable to believe that he could up the
14 ante and try to get away with a murder as well?

15 A. Yes, sir.

16 Q. And so when we talk about the scene, the crime scene
17 being consistent with a suicide, the reality is if you just
18 look at the scene, if you just look at James Seegan with a
19 gun in his hand and a contact wound to the back of his head
20 and a suicide note right next to him, that's consistent
21 with suicide, the scene, correct?

22 A. Yes, sir.

23 Q. But then we have to go back further and look at the
24 circumstances, correct?

25 A. Yes, sir.

1 Q. And is that where the Carrollton Police Department and
2 your entire team and the FBI came in?

3 A. That is correct.

4 Q. And is that what formed your conclusion that this was a
5 robbery and a murder?

6 A. Yes, sir.

7 Q. Was it one particular piece of evidence?

8 A. No, sir.

9 Q. What was it?

10 A. It was the totality of everything, numerous things we
11 kept looking at that just -- we couldn't keep explaining
12 away. They were all pointing in one direction.

13 Q. And did you look at Dida as a potential person who
14 could have had something to do with this?

15 A. Certainly.

16 Q. And did you investigate her fully?

17 A. We did.

18 Q. And did you dig into her history?

19 A. Yes, we did.

20 Q. And her personal business?

21 A. Yes, sir.

22 Q. At the conclusion of that, do you believe that Dida had
23 anything to do with this whatsoever?

24 A. Not at all.

25 Q. And when we talk about what was the plan long-term

1 here, we could have theories about that, correct?

2 A. Yes, sir.

3 Q. But it's impossible to know for sure because it didn't
4 ever get to that point, correct?

5 A. True.

6 Q. And so what we do know for a fact is that 36 hours
7 after he murdered Mr. Seegan, who's the person that takes
8 \$20,000, that steals \$20,000 from Mr. Seegan?

9 A. Mr. Ashley.

10 Q. And so we don't know what was going to happen down the
11 road; but we know within 36 hours this man stole \$20,000
12 from the man that he killed, correct?

13 A. That's correct.

14 Q. Does that make any sense to you, if he had nothing to
15 do with this, that he would steal \$20,000 from somebody
16 that just died?

17 A. No.

18 Q. And we know that his finances were in rough shape,
19 correct?

20 A. Yes.

21 Q. And we know that they were getting worse and worse and
22 worse leading up to this, correct?

23 A. That's correct.

24 Q. And in your line of work, you've seen desperate people
25 do things that are very, very evil, correct?

1 A. Yes.

2 Q. Because when you are desperate and you are against the
3 wall, you really don't know what a human being is capable
4 of. Is that fair to say?

5 A. That is true.

6 Q. So if we want to crawl inside the mind --

7 MR. WHALEN: Objection as to leading, your Honor.

8 THE COURT: Okay. Just rephrase your question.

9 BY MR. FINE:

10 Q. Are you able to crawl inside the mind of any defendant?

11 A. No.

12 Q. Do you form reasonable conclusions based on the
13 evidence?

14 A. Yes.

15 Q. And is that what you did here?

16 A. Yes, sir.

17 Q. And within Mr. Ashley's phone, did you also find a
18 photograph of him in sort of full medical gear as well?

19 A. Yes, we did.

20 Q. And if you'll take a look at the binder and look at
21 127B.

22 It might be the one behind you.

23 Is that the same picture that you found in
24 Mr. Ashley's phone?

25 A. It is.

1 MR. FINE: Government offers government's 127B at
2 this time.

3 MR. WHALEN: No objection, your Honor.

4 THE COURT: 127B will be admitted.

5 MR. FINE: Permission to publish, your Honor?

6 THE COURT: Yes, you may.

7 BY MR. FINE:

8 Q. And so, Detective Bonner, we talked about all of the
9 things that led up to this and all of the tools that
10 Mr. Ashley had, correct?

11 A. Yes, sir.

12 Q. And one of things we didn't talk about, he also had
13 access to medical equipment as well, correct?

14 A. Correct.

15 Q. Gloves, a gown, whatever you might want to put on,
16 correct?

17 A. Yes, sir.

18 Q. And if somebody was wearing gloves or protective gear,
19 would they leave any DNA behind?

20 A. Not much.

21 Q. Would they leave any fingerprints behind?

22 A. No, sir.

23 Q. And in this case was there any DNA or fingerprints
24 outside of the victim in this case?

25 A. None.

1 Q. And does that surprise you, given the circumstances?

2 A. No, sir.

3 Q. And does that surprise you, given the defendant's
4 background?

5 A. No, sir.

6 Q. And his expertise?

7 A. No, sir.

8 Q. And the tools at his disposal?

9 A. No, sir.

10 MR. FINE: I'll pass the witness.

11 THE COURT: Additional questions?

12 RECROSS-EXAMINATION OF BRANDON BONNER

13 BY MR. WHALEN:

14 Q. Detective Duncan (*sic*), the reason -- did anybody look
15 for fingerprints at his house that day?

16 A. I'm not sure what was dusted or looked for by the crime
17 scene at that time. I don't -- that, I don't recall. I
18 wasn't there.

19 But, again, normally our crime scene team would
20 if -- and especially if Detective Duncan would have asked
21 them to. I don't know that she did.

22 Q. Okay, because they didn't believe -- they believed it
23 to be a suicide, correct?

24 A. At the time it had the appearance.

25 Q. Okay. So just because there's no fingerprints there

1 doesn't mean they weren't there. You-all just didn't look
2 for them, correct?

3 A. Could be.

4 Q. And this picture that we have of protective gear, that
5 was taken after -- well after this, correct?

6 A. I don't know the exact date on it, but I believe so.

7 Q. Okay. This was during COVID, correct?

8 A. Yes, sir.

9 Q. Okay. So let's talk about something you mentioned
10 earlier. There was that trash bag, correct?

11 A. Yes, sir.

12 Q. And they were moving, correct?

13 A. Yes, sir.

14 Q. Okay. They were selling that house, correct?

15 A. That's correct.

16 Q. Do you know what they got out of that house, how much
17 that house was worth?

18 A. No idea.

19 Q. Okay. Did they earn money from that house?

20 A. I would assume so.

21 Q. Okay. And during COVID would you agree with me that
22 there was a desperate need for nurses?

23 A. Yes.

24 Q. Okay. So if somebody is financially stressed, they
25 have the ability to earn money as a nurse, they are in the

1 process of selling their house, those are assets and
2 resources somebody could have to live on and support their
3 family, correct?

4 A. Certainly.

5 Q. Okay. So did you consider -- you didn't consider that
6 when you talked about whether or not he was under financial
7 stress, correct?

8 A. I'm sorry. What are you --

9 Q. Did you consider his net worth, consider what value he
10 had in the business, what he -- other assets they have?

11 A. Certainly.

12 Q. Okay. And so you're still sitting here today, even
13 though he had the ability to earn a living and he was
14 selling his house, that he was desperate for money?

15 A. Yes, sir, based off of the fact that he was still
16 moonlighting as a nurse but he owned a brewery that we knew
17 was in kind of financial trouble and with his business work
18 in finances that weren't quite going well.

19 Once we discovered he was running the Ponzi
20 scheme, those things collapsed and it started falling in on
21 itself and that's what we believed was happening.

22 Q. And that's what you believe, correct?

23 A. Yes, sir.

24 Q. Okay. But you didn't look at those other parts of it,
25 did you?

1 A. As far as the finances from the home and working as a
2 nurse?

3 Q. Correct.

4 A. We certainly took it into consideration, but we didn't
5 believe that would be maybe enough money to get rid of the
6 Ponzi scheme and pay everybody off.

7 Q. Okay. But if you have Promissory Notes where you can
8 pay them back over time -- did you do any calculations as
9 it relates to that?

10 A. No, sir.

11 Q. And would you agree with me --

12 THE COURT: Mr. Whalen, your mic is off.

13 BY MR. WHALEN:

14 Q. And just so we're clear, too, you talked about -- you
15 used the word "probable cause," correct?

16 A. Yes, sir.

17 Q. And would you agree with me that's a lower standard
18 than beyond a reasonable doubt?

19 A. I'd say it's pretty close.

20 Q. Okay. In your opinion, you believe that they are the
21 same?

22 A. Yeah, pretty close.

23 Q. Okay.

24 MR. WHALEN: I'll pass the witness.

25 THE COURT: Anything additional?

1 MR. FINE: One question, your Honor.

2 THE COURT: Okay. Go ahead.

3 FURTHER REDIRECT EXAMINATION OF BRANDON BONNER

4 BY MR. FINE:

5 Q. Detective Bonner, the defense just brought up probable
6 cause. Let me ask you this: Do you have any reasonable
7 doubt whatsoever about your testimony here today?

8 A. I do not.

9 MR. FINE: I'll pass the witness.

10 MR. WHALEN: Nothing further.

11 THE COURT: Can this witness be fully excused?

12 MR. FINE: Yes, your Honor.

13 MR. WHALEN: Yes, your Honor.

14 THE COURT: You are free to leave. Thank you.

15 THE WITNESS: Thank you, sir.

16 THE COURT: Okay. What's next?

17 MS. RATTAN: The United States calls Heidi
18 Scarbrough.

19 THE COURT: Ma'am, if you'll raise your right hand
20 to be sworn in.

21 (The oath is administered to the witness.)

22 THE COURT: Go ahead and proceed.

23 MS. RATTAN: Thank you, your Honor.

24 *

25 *

1 DIRECT EXAMINATION OF HEIDI SCARBROUGH

2 CALLED ON BEHALF OF THE GOVERNMENT

3 BY MS. RATTAN:

4 Q. Please state your name.

5 A. Heidi Scarbrough.

6 Q. Please spell your name, please.

7 A. H-E-I-D-I S-C-A-R-B-R-O-U-G-H.

8 Q. And, Ms. Scarbrough, would you tell us where you work
9 now?

10 A. I work for INTERLINK CancerCare.

11 Q. Pardon?

12 A. INTERLINK CancerCare.

13 Q. INTERLINK CancerCare?

14 A. Yes, ma'am.

15 Q. And where is that located?

16 A. Our corporate office is in Portland, Oregon; but I work
17 in the Rockwall, Texas, office.

18 Q. What do you do there?

19 A. I'm the president.

20 Q. And what does -- what does that business do?

21 A. We provide case management to cancer patients
22 nationally.

23 Q. Let me ask you. Before you moved to this position now,
24 did you work at the City Hospital at White Rock in Dallas,
25 Texas?

1 A. I did.

2 Q. And what did you do there?

3 A. I was the chief nursing officer.

4 Q. The chief nursing officer at City Hospital at White
5 Rock?

6 A. Correct.

7 Q. Can you give the jury what your educational background
8 is that qualified you to be the chief nurse at the hospital
9 there?

10 A. Sure.

11 Started my nursing career, I was a -- you asked
12 for my education, correct?

13 Q. Yes.

14 A. Education, I was a licensed vocational nurse from South
15 Plains College. I then went back and got my registered
16 nursing degree from Covenant School of Nursing. I then
17 went back and got my master's of nursing from University of
18 Phoenix. And then I also have a bachelor's degree in human
19 development from Texas Tech.

20 Q. So you have an LVN, an RN, a Bachelor of Science, and a
21 master's of nursing?

22 A. Correct.

23 Q. So you have four separate degrees in nursing?

24 A. Correct.

25 Q. Along with your education, do you also have training

1 and seminars that you attend to educate you?

2 A. Correct.

3 Q. Can you give us an idea of what's required?

4 A. Workwise, I've been a nurse for 22 years. I started my
5 career at Medical Center of Plano. I worked there for 12
6 years. It's an HCA-owned system.

7 Worked my way up through the leadership tract
8 (*sic*), started out as staff nurse, assistant nurse manager,
9 charge nurse, manager, director, various positions from ER
10 to case management and worked in their trauma program.

11 When I left there, I was the director of clinical
12 excellence and then left and went to Texas Health Resources
13 where I did director of ICU, med/surg, and did more
14 operational work in terms of magnate, pathway to
15 excellence, and eventually became associate chief nursing
16 officer and then built more leadership skills and
17 eventually became chief nursing officer.

18 I'm triple certified in medical/surgical nursing,
19 case management, and board certified as a nurse executive.

20 Q. Have you also served as a professor, an adjunct
21 professor in teaching in nursing?

22 A. At Collin County Community College I serve as adjunct
23 faculty there.

24 Q. Now let me direct your attention to your work as the
25 chief nurse there at City Hospital at White Rock.

1 Did you become familiar with the name Keith
2 Ashley?

3 A. Yes, ma'am.

4 Q. And did Keith Ashley work at the City Hospital as well?

5 A. He did.

6 Q. And what was Keith Ashley's job there?

7 A. Keith worked in our emergency department. He was what
8 we call PRN, or as needed.

9 Q. Okay. At some point was he terminated from the City
10 Hospital at White Rock?

11 A. He was.

12 Q. And why was that?

13 A. So when you work PRN, there is a minimum number of
14 shifts that you have to work in order to maintain
15 employment; and he --

16 MR. SANDEL: Objection, your Honor. May we
17 approach?

18 THE COURT: Yes.

19 (Sidebar conference, off the record.)

20 THE COURT: Go ahead and proceed.

21 MS. RATTAN: Thank you, your Honor.

22 BY MS. RATTAN:

23 Q. So you're familiar with Keith Ashley as an employee in
24 the hospital, and he no longer works there. Is that your
25 understanding?

1 A. Correct.

2 Q. Let me ask you about the day of February 20th of 2019.
3 February 20th of 2019. Was he scheduled to work on that
4 day?

5 A. Correct.

6 Q. And what happened?

7 A. He called in.

8 Q. What do you mean by "he called in"?

9 A. So there was a scheduled shift, and he called in and
10 didn't come to work that day.

11 Q. Okay. So not February 19th of twenty- -- not
12 February 19th. We're talking about February --

13 A. The year.

14 Q. -- 20th. Okay.

15 A. Yeah.

16 Q. Right. And he called in.

17 A. That's what I was pausing to think about it, yes.

18 Q. So let me talk to you -- let's shift gears here for a
19 minute and let's focus on a drug, a drug by the name of
20 etomidate. Are you familiar with that drug?

21 A. I am.

22 Q. And can you describe for the jury just generally what
23 it is?

24 A. Etomidate is a drug. It's an anesthetic that we use in
25 hospitals typically during -- we use it in the emergency

1 department for codes, to intubate patients. It puts
2 patients to sleep so that we can effectively intubate
3 patients, and it's followed up typically by a paralytic.
4 It's a short-acting anesthetic, doesn't last very long.

5 Q. And so you say that typically, or most often maybe,
6 it's used in the emergency department?

7 A. Uh-huh. Correct.

8 Q. And what department was it that Keith Ashley was
9 specifically employed in?

10 A. In the emergency department.

11 Q. Now, is etomidate a controlled drug?

12 A. It is not.

13 Q. And when we say "controlled drug," what does that mean?

14 A. So controlled drugs -- there are certain drugs that you
15 are required to count. So things like narcotics like
16 morphine, Dilaudid, every time you get it, you have to have
17 a witness to its wastage.

18 And etomidate is not a drug that you have to
19 actually go and waste whatever is left over. You don't
20 have to do that with etomidate.

21 Q. So you just used a term or a phrase, that it has to be
22 wasted and a witness to the wasting.

23 Can you describe for the jury what that means?

24 A. Sure.

25 So a physician orders 4 milligrams of morphine --

1 let me back up.

2 If a physician orders 2 milligrams of morphine but
3 the packet, the vial that it comes in, is 4 milligrams of
4 morphine. That would leave 2 milligrams of morphine extra,
5 and so I would have to get another nurse to witness that
6 wastage of that other 2 milligrams of morphine. They would
7 have to watch me either put it down the drain or in a
8 sharps container, whatever that process is at that
9 particular hospital.

10 And then you would have to document that in the
11 electronic medical record, and so you would have the
12 primary nurse and a cosigner that you witnessed that
13 wastage.

14 Q. So if a drug is not used up in the health care system,
15 someone has to witness it being wasted?

16 A. Correct.

17 Q. But is that true of etomidate?

18 A. No.

19 Q. So if there is any etomidate left over, nobody has to
20 witness the wasting?

21 A. Correct.

22 Q. Because it's not a controlled drug?

23 A. Correct.

24 MS. RATTAN: Your Honor, may we publish
25 Government's Exhibit 14B, page 1.

1 THE COURT: Yes, you may.

2 BY MS. RATTAN:

3 Q. Let me direct your attention to a record of City
4 Hospital at White Rock. This is from the Pyxis system.

5 Are you familiar with the Pyxis system there at
6 the hospital?

7 A. I am.

8 Q. And, just generally, what is it?

9 A. A Pyxis is a machine in a department and it's full of
10 medications and it's logged in by users. You have to have
11 a specific log-in. And so the employee logs in and they
12 identify a patient and then they identify what drug they
13 want to pull and a drawer pops open and you pick that drug
14 and then it closes.

15 Q. And this shows that on December 17th of 2019, Keith
16 Ashley accessed the drug etomidate; is that right?

17 A. Correct.

18 Q. And it's got a patient name, and we've removed the
19 patient name for privacy but left the initials.

20 Do you see that?

21 A. I do.

22 Q. Now, even if etomidate were used on this patient -- and
23 we'll say patient EC, first name/last name EC. Even if
24 this etomidate were used on this patient EC, if some were
25 left over, would anyone have had to witness the wasting?

1 A. No.

2 Q. So whatever was left over would have been available; is
3 that correct?

4 A. Correct.

5 Q. Well, other than this, other than the Pyxis system, let
6 me ask you about other ways in the City Hospital there at
7 White Rock that an employee could access etomidate.

8 Is this the only way an employee could access
9 etomidate?

10 A. No.

11 Q. Can you describe for the jury other ways that an
12 employee would be able to get etomidate?

13 A. Sure.

14 There are several other ways in which an employee
15 can obtain etomidate. There is something called an RSI
16 box. Whenever you have a code in a hospital, time is brain
17 death; and so you want to get that medication to the
18 patient as quickly as possible.

19 And you don't want an employee standing at the
20 Pyxis selecting each drug manually one by one. That takes
21 a lot of time. And so we create something called an RSI
22 box, which is a -- it's called rapid sequence intubation.

23 And they can just pull the box out and etomidate
24 can be in that box and so they just pull the box out and so
25 you wouldn't see it on a list specifically where they just

1 pulled etomidate out by itself. And so etomidate can be
2 pulled through the RSI box.

3 It can also be pulled through what's called a
4 crash cart, and we have crash carts throughout the
5 department. And so an employee could just crack the crash
6 cart and pull etomidate out through there.

7 Q. Okay. So let me stop you.

8 A. Sure.

9 Q. The Pyxis system would document access to etomidate and
10 would access -- and would document access to the RSI box;
11 is that right?

12 A. You pull the RSI box out through the Pyxis, correct.

13 Q. So Pyxis is going to document both of those.

14 Now you've moved into a third way to access
15 etomidate in the hospital, and you said it's a crash cart?

16 A. Correct.

17 Q. Okay. Is Pyxis going to document an employee's access
18 on a crash cart?

19 A. No.

20 Q. Okay. Well, explain how an employee would get access
21 to etomidate on a crash cart.

22 A. Anybody can. There is no tracking mechanism for it.

23 A crash cart just has a little plastic lock on it.
24 Materials Management supplies the supplies that are in it.
25 There's lots of different things in a crash cart, from IV

1 fluids to IV tubing. But Pharmacy brings up a medication
2 tray, and all the medications are in that tray.

3 And whenever you needed something, you'd just pop
4 the lock, take what you need if it's for a code, if you
5 just needed something you can't get in supplies; and you
6 would just call Pharmacy and say, "Hey, I had to pop the
7 lock. Can you come change the lock out?"

8 There is really no mechanism to know why or what
9 was used specifically, and there is no way to really go
10 back and look at that.

11 Q. And you said that Keith Ashley worked in the emergency
12 department?

13 A. Correct.

14 Q. Are there crash carts in the emergency department?

15 A. There are.

16 Q. How many crash carts would be in the emergency
17 department?

18 A. My recollection, I think there's three in City
19 Hospital's.

20 Q. Now, is there a requirement that after the crash cart
21 is used, that the employee self-report?

22 A. No.

23 Q. So what control is there over the drugs that are used
24 off the crash cart?

25 A. There really isn't any. Anybody can crack it and use

1 it.

2 Q. And is that because at some point even though the
3 hospital tries to control and account for drugs, they've
4 got to be available in an emergency if they're needed?

5 A. Correct.

6 Q. So we've talked about the Pyxis, the RSI, the crash
7 cart. What about if someone is not the primary nurse?

8 If you're a nonprimary nurse but assisting, does
9 that allow you to access drugs?

10 A. Absolutely.

11 Q. And describe that.

12 A. Yeah, and I think that -- City Hospital doesn't have a
13 huge ER. It's a very small ER. I think it's either 16 or
14 18 beds, and it's staffed 4-to-1. So there's probably only
15 four or five nurses working in the ER at the time, and it
16 takes about that many people to run a code. So, basically,
17 when there is a code in that ER, that's the entire staff
18 working; so everybody is pulled to work that code.

19 And there is a primary nurse that's going to be in
20 there running the code.

21 You're going to have a recorder.

22 You're going to have somebody doing compressions.

23 You're going to have somebody bagging and somebody
24 pushing drugs.

25 And everybody's going to be in that room and

1 ultimately having access to whatever drugs are in that
2 room.

3 So although there is only one mar (phonetic
4 spelling) here that says etomidate was pulled, every code
5 that was run during that time, etomidate is going to be in
6 there; and anybody could have had access to it.

7 Q. So these are basically four different ways that an
8 employee, especially in the emergency department, could
9 access etomidate and it not be documented in at least two
10 of the ways; is that right?

11 A. Correct.

12 Q. Now, in September of 2020, as the head nurse, the chief
13 nurse at the hospital, were you approached by the
14 Carrollton Police Department?

15 A. It was before September of 2020, but yes.

16 Q. Okay, before September of 2020.

17 So at some point in 2020, were you approached by
18 the Carrollton Police Department?

19 A. On a couple occasions, yes.

20 Q. And did they talk to you about etomidate?

21 A. They did.

22 Q. And did you become concerned about the security in the
23 hospital of that drug, etomidate?

24 A. I did.

25 Q. And will you describe for the jury what you did to

1 determine whether etomidate could be accessed by a hospital
2 employee?

3 A. So every morning, as the chief nursing officer, I round
4 on the hospital. On the employees I'm looking for safety
5 issues, concerns, just general rounding on the hospital.

6 And in September I was rounding in the ER. And
7 there are two main rooms in the emergency department that
8 we do codes in. They are the biggest rooms. They are our
9 trauma rooms. And I had walked over there, and clearly on
10 that morning there had been a code. There weren't any
11 patients around. There weren't any employees around, but
12 the room was a disaster. The doors to the cabinets were
13 open. The crash cart was wide-open. Sharps were readily
14 available.

15 I was very concerned because this is a -- it's a
16 Joint Commission violation. It's obviously a safety issue,
17 right? So as the chief nurse, I'm very concerned because
18 you've got some violations going on.

19 So I walk in the room to fix the issue. I want to
20 make the room safe immediately. And so I'm putting sharps
21 away. I'm closing cabinets. I'm making the room clean.
22 And I look over, and on the counter is this open vial of
23 etomidate. It's full. The top had been popped, but it's
24 very full.

25 And I think -- and, obviously, Carrollton PD had

1 been there. We had some concerns about how we were
2 controlling etomidate in the hospital, what was our
3 mechanism for wastage of etomidate -- not that it's
4 controlled but still, all drugs we need to account for.

5 And so I thought I want to know if -- what is our
6 mechanism? How are we tracking etomidate? Is anybody ever
7 going to know if this etomidate goes missing, because
8 Carrollton PD had just asked me would somebody know if they
9 took etomidate if it went missing.

10 So I slipped it in my pocket, secured the room. I
11 went out and I talked to the charge nurse and I said, "Hey,
12 one, I've got this safety issue." I addressed that issue
13 because I was very concerned about that.

14 "But also I want you to know I'm taking this
15 bottle of etomidate," because as the primary nurse of the
16 room, you should know exactly what meds are pulled, what
17 meds were given. You need to be documenting them, because
18 all of that needs to be in the electronic medical record.

19 So is the primary nurse ever going to know it's
20 missing, is Pharmacy and our reconciliation process --

21 MR. SANDEL: Your Honor, at this point I'd object
22 to the narrative.

23 THE COURT: Just ask another question.

24 BY MS. RATTAN:

25 Q. So after you got the etomidate out of the room, you

1 went to the charge nurse. You explained what you were
2 doing --

3 A. I wanted -- I wanted them to know I didn't take it, was
4 my point, that I wasn't diverting any kind of drug.

5 I then went up and called HR and told them
6 because they had been working --

7 Q. Human -- human resources.

8 A. -- with Carrollton PD, too, because I didn't, again,
9 want anyone to think I was diverting narcotics.

10 And at the end of -- I left City Hospital in --
11 that was in September. I left City Hospital in March, the
12 following March; and it was still in my office locked up.
13 So I was technically able to divert etomidate, and nobody
14 was ever aware of it.

15 Q. So from September of 2020 when you took the etomidate
16 out of the empty room where it looked like there had been
17 an emergency through your leaving in March of 2021, nobody
18 ever raised with you the fact that etomidate was missing?

19 A. Didn't come up in any of the Pharmacy Diversion
20 Committee. The primary nurse didn't note it that day, the
21 charge nurse. No one ever brought it up. Correct.

22 Q. Let me ask if you've used etomidate.

23 A. I have.

24 Q. Can you estimate for the jury the number of times that
25 you've used etomidate?

1 A. I -- a lot. I couldn't even count. Hundreds.

2 Q. And how is etomidate administered? How does a patient
3 receive etomidate?

4 A. IV.

5 Q. So through a shot or a drip?

6 A. Uh-huh, correct.

7 Q. Can etomidate ever been taken orally?

8 A. I've never given it that way.

9 Q. So the many, many times you've done it, it's always
10 been IV?

11 A. IV.

12 Q. What about protective equipment there in the hospital?
13 Is that available to the employees?

14 A. It is.

15 Q. And when we say "protective equipment," I'm talking
16 about gowns, gloves, masks, all of these things.

17 A. Correct.

18 Q. And would that be available to all of the employees?

19 A. Absolutely.

20 Q. And in the emergency department?

21 A. Uh-huh (moving head up and down).

22 MS. RATTAN: I'll pass the witness.

23 THE COURT: Okay. It's the noon hour, so let's go
24 ahead and take our lunch break.

25 Again, ladies and gentlemen, please don't discuss

1 the case among yourself or anyone else. Don't do any
2 outside research. We'll come back in an hour, back at
3 1:00. Have a good lunch.

4 (The jury exits the courtroom, 11:59 a.m.)

5 THE COURT: Anything further from the government?

6 MS. RATTAN: No, your Honor.

7 THE COURT: Anything from defense?

8 MR. SANDEL: No, your Honor.

9 THE COURT: Okay. See you back at 1:00.

10 (Recess, 12:00 p.m. to 1:06 p.m.)

11 (Open court, defendant present, jury present.)

12 THE COURT: Please be seated.

13 Ladies and gentlemen, I hope you had a nice lunch.
14 And cross-examination?

15 MR. SANDEL: Thank you, your Honor.

16 CROSS-EXAMINATION OF HEIDI SCARBROUGH

17 BY MR. SANDEL:

18 Q. Ms. Scarbrough, good afternoon. How are you?

19 A. I'm good. Thank you.

20 Q. My name is Ryne Sandel, and I represent Keith Ashley in
21 this case. Okay?

22 And I've just got some questions that I wanted to
23 follow up with you on. If at any time I ask you something
24 that you need me to rephrase, just ask me and I'm happy to
25 do that, okay?

1 A. Sure.

2 Q. All right. We talked about etomidate on your direct
3 examination. Do you recall that?

4 A. I do.

5 Q. And etomidate, you said, was one of the multitude of
6 drugs that is utilized in an emergency room setting,
7 correct?

8 A. Correct.

9 Q. Can etomidate be used in things besides just
10 intubation?

11 A. It's used in other procedures besides the emergency
12 department. It can be used in the OR, can be used in other
13 areas.

14 Q. Okay. So etomidate is a drug that is found in a couple
15 different places in the hospital, correct?

16 A. Correct.

17 Q. Now, when we talk about the emergency room, who all has
18 access -- or when we're looking back at 2019 because that's
19 the time frame we're talking about, correct?

20 So if you recall back to December of 2019, what
21 individuals would have access to the emergency room of the
22 hospital?

23 A. To clarify, are you talking about Pyxis? Are you
24 talking about the crash cart, RSI kits, or all of it?

25 Q. Let's just say everything in the emergency room. Who

1 all would have access to that area of the hospital?

2 A. Potentially anybody.

3 So the Pyxis, you have to have specific
4 permission. You have to have an --

5 Q. Okay.

6 A. -- ID that you're given to log in to the Pyxis so we
7 can track that.

8 The RSI kits are in the Pyxis. We would know if
9 you had access to either the Pyxis directly or to an RSI
10 kit.

11 If you're talking crash carts, potentially anybody
12 could. But we would know if it -- who -- when a crash cart
13 was opened; but like I spoke about earlier, it could be for
14 any reason.

15 Q. Now, when you say -- because I do want to make sure we
16 clarify. When you say "potentially anybody," I mean, do
17 you mean hospital employees anybody; or do you mean anybody
18 anybody?

19 Could I walk into the emergency room?

20 A. You could.

21 Q. I could.

22 And the crash carts that we talked about, okay,
23 could I walk up to a crash cart and what you called pop the
24 lock and grab some drugs out of there?

25 A. You could.

1 Q. And so back in 2019, literally anybody could have just
2 walked in, opened a crash cart, and grabbed a bottle of
3 etomidate; is that fair?

4 A. Fair.

5 Q. Now, back in 2019, did your emergency room have
6 security cameras?

7 A. They did.

8 Q. And if you know the answer to this, how many security
9 cameras were in your emergency room?

10 A. I don't know the answer to that.

11 Q. What general areas did those cameras cover?

12 A. I don't know the answer to that.

13 Q. Do you know if there was one in every ER room?

14 A. No.

15 Q. There was not, or you're not sure?

16 A. There was not.

17 Q. There was not.

18 Were there cameras covering every hallway?

19 A. I don't know the answer to that.

20 Q. Do you know if there was a camera that covered where
21 the Pyxis vending machine was?

22 A. I don't know the answer to that.

23 Q. All right. Now, we talked about these crash carts; and
24 you said that in order to get into them, a lock has to be
25 popped, correct?

1 A. Correct.

2 Q. When that lock gets popped and that crash cart gets
3 used, who is responsible for restocking the supplies that
4 were pulled?

5 A. It's a two-part process. If it's a supply that's used,
6 like IV tubing, we would call Materials; and they come up
7 and supply that.

8 If it's something from the med tray, we call
9 Pharmacy and Pharmacy comes up and replaces that.

10 Q. So fair to say that if somebody popped a crash cart and
11 pulled a vial of etomidate, Pharmacy would be the one in
12 charge of restocking that, right?

13 A. Correct.

14 Q. Now, I assume that the hospital Pharmacy Department
15 keeps a log of the different medications that they're
16 stocking in different places, correct, for inventory
17 purposes?

18 A. Correct.

19 Q. Because they need to know when do we need to reorder or
20 are we getting low on this drug, correct?

21 A. Correct.

22 Q. Okay. So Pharmacy would be made aware or have a log or
23 a record of when a crash cart had to be refilled with
24 etomidate, correct?

25 A. Correct.

1 Q. Okay.

2 Okay. I wanted to ask briefly about -- hope get
3 this right. I think it was called the RSI box; is that
4 right?

5 A. Right.

6 Q. Okay. Remind me what the RSI box is.

7 A. RSI is rapid sequence intubation.

8 Q. Rapid sequence --

9 A. Sequence --

10 Q. -- intubation?

11 A. -- intubation.

12 It's a box of medications used -- and you give
13 them in a certain sequence -- to intubate patients.

14 Q. Okay. And that is -- when you were speaking with
15 Ms. Rattan, that's another box that would have etomidate in
16 it, correct?

17 A. Yes.

18 Q. What else is in that RSI box?

19 A. It -- so honestly, I don't know at some point. There
20 are several medications in it. And even in City Hospital,
21 not at all times did it have etomidate.

22 Q. Okay.

23 A. Which we explained to Carrollton PD when they came
24 because we had changed our process. But it can --
25 sometimes it doesn't have etomidate. There's other drugs

1 in it like succinylcholine, which needs to be refrigerated.

2 So it depends on where you keep it if it's in a
3 refrigerator or where it's not. It depends on the
4 facility.

5 Q. And the RSI box, that is located in the Pyxis, correct?

6 A. Correct.

7 Q. Now, does the RSI box contain any controlled drugs?

8 A. It shouldn't, no.

9 Q. It shouldn't, okay.

10 But it does contain things that require
11 refrigeration?

12 A. It depends -- that depends on -- it can, depending on
13 if you're keeping it in a refrigerator.

14 Q. Okay.

15 A. If you keep your succs in the RSI box, then, yes, it
16 needs to be refrigerated.

17 Q. Now, did you, when you were working with Carrollton PD,
18 review any of the camera footage from that December 2019
19 date at all?

20 A. I didn't, no.

21 Q. Okay. Do you recall if that was requested?

22 A. I don't recall that.

23 Q. Thank you, Ms. Scarbrough. I appreciate it.

24 MR. SANDEL: I'll pass the witness, your Honor.

25 THE COURT: Additional questions?

1 MS. RATTAN: No, your Honor.

2 THE COURT: Can this witness be fully excused?

3 MS. RATTAN: Yes, please.

4 MR. SANDEL: Yes, your Honor.

5 THE COURT: Ma'am, you are free to leave. Thank
6 you.

7 What's next?

8 MS. RATTAN: May we approach, your Honor?

9 THE COURT: Yes.

10 (Sidebar conference, off the record.)

11 THE COURT: Ladies and gentlemen, I want to go
12 ahead and just clarify one thing. The witness before the
13 last was Detective Brandon Bonner, and he stated some
14 opinions regarding whether certain events were robbery or
15 murder. And what I'm going to instruct you is -- is that
16 that was his opinion; but the ultimate issue of whether
17 those two things happened in this case is up to you, the
18 jury. So I would ask you to disregard his opinion, and
19 you'll make your own decision regarding -- when you look at
20 this case at the end when it's submitted.

21 Okay. What's next?

22 MR. COMBS: Your Honor, the government calls
23 Dr. Stacey Hail.

24 THE COURT: Ma'am, if you'll raise your right hand
25 to be sworn in.

1 (The oath is administered to the witness.)

2 THE COURT: Go ahead.

3 MR. COMBS: May I proceed? Thank you, your Honor.

4 DIRECT EXAMINATION OF STACEY HAIL

5 CALLED ON BEHALF OF THE GOVERNMENT

6 BY MR. COMBS:

7 Q. Ma'am, can you please state your name.

8 A. Yes.

9 My name is Dr. Stacey Hail.

10 Q. And how do you spell your last name?

11 A. H-A-I-L, like a hailstorm.

12 Q. Okay. Ma'am, you said you're Dr. Stacey Hail. And
13 what is -- are you a medical doctor?

14 A. I am.

15 Q. Can you describe for the members of the jury your
16 educational background?

17 A. I received a Bachelor of Science in Chemistry from
18 Southern Methodist University in Dallas;

19 Followed by my medical doctor degree, which is
20 four years, at the Medical College of Georgia in Augusta,
21 Georgia;

22 Followed by a residency in emergency medicine at
23 Parkland Hospital, which is also part of UT Southwestern;

24 Followed by a two-year fellowship in medical
25 toxicology, also through Parkland and the North Texas

1 Poison Center.

2 Q. And where are you currently employed?

3 A. I'm an associate professor of emergency medicine and
4 medical toxicology at The University of Texas Southwestern.

5 Q. Do you also work in the emergency department at
6 Parkland?

7 A. Yes.

8 It's a unique arrangement where UT Southwestern
9 does have its own hospital and its own medical department;
10 but the faculty of UT Southwestern also staff Parkland, not
11 just in the ER but in all specialties.

12 Q. Tell the jury kind of a day in the life of Dr. Hail. I
13 mean, what do you do from day to day?

14 A. Well, I don't live the same day twice; and that was by
15 design. So some days I'm wearing my emergency medicine
16 hat. And when I do that, I'm working in the Parkland
17 emergency department and those are nine-hour shifts and I
18 will see all comers to the ER, whether it's traumas or
19 heart attacks or strokes or overdoses, anything that comes
20 into the ER.

21 When I'm wearing my medical toxicology hat, this
22 is out of the North Texas Poison Center. And we have
23 rounds every day Monday through Friday, except Thursdays;
24 and we round on patients that were called into the Poison
25 Center from all over North Texas. I think a lot of people

1 know parents may call a Poison Center if their kid gets
2 into something but what a lot of people don't know is that
3 other types of physicians also call the Poison Center for
4 assistance with managing their poisoned patients.

5 And sometimes when I'm wearing my associate
6 professor hat, we are doing bedside teaching or kind of the
7 traditional kind of teaching in a classroom type of
8 setting.

9 Q. You said that you're board certified in medical
10 toxicology. First of all, how many physicians across the
11 country hold that board certification?

12 A. Less than 300.

13 Q. What does that mean?

14 First of all, what does it take to get that
15 certification?

16 A. Well, a lot of people are confused when they talk to
17 me, like you're an ER doctor but you're a toxicologist and
18 it doesn't make sense.

19 But just like a cardiologist, which is a heart
20 doctor, will do an internal medicine residency first and
21 then do a fellowship in cardiology, medical toxicology is a
22 fellowship after emergency medicine because most poisons
23 are acute.

24 They are emergencies; and they end up in the
25 emergency room, not your pediatrician's office or your

1 regular family practice office.

2 So snakebites and overdoses and chemical exposures
3 are all emergencies, and so it is a fellowship that can be
4 done after emergency medicine.

5 But you can't come straight out of medical school
6 and do a fellowship in medical toxicology.

7 So you first have to do a residency, typically in
8 emergency medicine, followed by the two-year fellowship in
9 medical toxicology.

10 And then you have to pass your toxicology boards
11 which have a very low pass rate because they are extremely
12 difficult.

13 And then you have to renew that every ten years.

14 Q. So you've taken us through what it takes to become a
15 medical toxicologist. What does a medical toxicologist do
16 or know that differentiates you from any other doctor?

17 A. Well, we are the -- we are the specialty that are
18 experts all things poison. And a poison can be an illicit
19 drug, any prescription drug, any kind of plant or mushroom
20 or sea creature, any kind of chemical pesticides.

21 We are the specialists not just in the poison but
22 managing poisoned patients. We are a lot different from a
23 PhD type of toxicologist where they are chemists in a
24 laboratory and their interaction with a patient is a test
25 tube of blood or urine. We are actually the ones that take

1 care of poisoned patients.

2 And we're different from medical examiners because
3 medical examiners have never really been trained in
4 treating any kind of patient. My job is to make sure that
5 my patients don't meet the medical examiner. And they are
6 also not -- besides not being trained in treating living
7 patients, they are not trained in toxicology, let alone
8 medical toxicology.

9 Q. Have you written articles in the field of medical
10 toxicology?

11 A. I'm sorry. I can't hear you.

12 Q. Have you written articles in the field of medical
13 toxicology?

14 A. A few.

15 Q. And you've given presentations; is that right?

16 A. Yes.

17 Q. And you teach frequently. It's your job, in fact --

18 A. Yes.

19 Q. -- in this field.

20 Have you testified as an expert witness before?

21 A. I have.

22 Q. How many times?

23 A. Today marks the 30th time in federal court and 14 times
24 in state court.

25 Q. And there's been some fairly noteworthy cases; is that

1 right?

2 A. Yes.

3 Q. Any recent noteworthy cases that you've testified in?

4 A. I recently testified in the case involving the fentanyl
5 death of Tyler Skaggs, who was the Los Angeles Angels
6 pitcher that came to Dallas with his team to play against
7 the Texas Rangers.

8 I have also testified in some cases involving rap
9 stars that have dealt drugs and -- I guess those are just a
10 couple examples.

11 Q. Okay. And are you a contributor or a expert consultant
12 for any television networks?

13 A. Yes. I actually have a *Dateline NBC* episode coming out
14 in a couple weeks, and it involves a high-profile murder
15 death in Las Vegas. At least I've been told it will come
16 out in a couple weeks.

17 And so I've been on several of those crime types
18 of TV shows.

19 Q. Now, are you familiar with a drug by the name of
20 etomidate?

21 A. I am.

22 Q. Okay. Have you worked with etomidate in the course of
23 your career?

24 A. I have.

25 Q. Many times or just a few times?

1 A. Too numerous to count times.

2 Q. Okay. And in preparation for your testimony today,
3 have you reviewed literature regarding etomidate?

4 A. I have.

5 Q. And can you summarize the literature that you've
6 reviewed in preparation for your testimony?

7 A. Well, I was mainly interested in how many times
8 etomidate has been used for homicide and -- or even suicide
9 just to see because it is extremely odd and rare to see it
10 outside of the hospital setting and I have actually never
11 heard of a case involving etomidate outside of the hospital
12 setting.

13 Q. Okay.

14 MR. COMBS: Your Honor, at this time the
15 government would offer Dr. Stacey Hail as an expert in
16 medical toxicology and emergency medicine.

17 MR. SANDEL: No objection, your Honor.

18 THE COURT: She will be treated as such, then.

19 MR. COMBS: Thank you.

20 BY MR. COMBS:

21 Q. So tell the jury, basically -- you've been here for the
22 testimony today; is that right?

23 A. That's correct.

24 Q. And so you've heard the same testimony the jury has
25 heard, right?

1 A. Yes.

2 Q. And you heard the testimony about what etomidate is and
3 what it does, right?

4 A. Correct.

5 Q. What's your experience, and where have you most
6 experienced use of etomidate in a hospital setting?
7 Surgery? Emergency room? Where have you dealt with it the
8 most?

9 A. Well, in the emergency department setting because I am,
10 after all, an emergency physician.

11 Q. Okay. And is your experience consistent with what
12 we've heard earlier this morning about the use and storage
13 of etomidate?

14 A. Yes.

15 Q. I'd like to talk to you a minute and -- step away from
16 etomidate for a minute and just talk generally about ER
17 procedures.

18 We've heard some talk about that today, right?

19 A. Yes.

20 Q. And what -- we've heard about coding earlier today.
21 What does that mean? When a patient codes, what does that
22 mean?

23 A. So a coding patient is a patient that has either
24 stopped breathing or their heart has stopped or -- probably
25 using "heart stopped" is not a very good medical way of

1 describing it, but it can mean that they are in a rhythm
2 that's not sustainable for life.

3 And so you either need to secure an airway quickly
4 and then start administering drugs that we call ACLS drugs,
5 which is advanced cardiac life support medications, in an
6 effort to resuscitate them.

7 Q. Okay. And in that type of situation, is it fair to say
8 that it's very important to get in and work on that patient
9 quickly? Is that true?

10 A. Of course, yes.

11 Q. So if that sort of thing is happening, do -- well, in
12 an ordinary situation when you're visiting a patient, do
13 you -- if you're going to do a procedure on a patient and
14 administer medicine, do you wear gloves?

15 A. Yes.

16 Q. Might you wear a gown, a paper gown or a plastic gown?

17 A. Yes.

18 Q. And may there be times where you put on booties?

19 A. Yes.

20 Q. And, you know, maybe even a face shield or a hair
21 thing, depending on the situation?

22 A. Yes.

23 Q. And when a person is coding and time is of the essence,
24 is it still important for you as a doctor to don protective
25 gear?

1 A. Yes.

2 Q. Why is that?

3 A. Well, we're trying to prevent transmission of diseases.
4 But also specifically with a trauma patient, if they come
5 in bleeding we don't want to get any bloodborne infections.

6 So generally we have a heads-up before a patient
7 arrives into the emergency department coding, whether it be
8 from trauma or otherwise; and we don our personal
9 protective equipment prior to the arrival of the patient.

10 Q. And over the time in working in the ER, do you become
11 very efficient at doing that?

12 A. Yes.

13 Q. You can do it very quickly. Would you say you could
14 put a gown and a glove and a mask on in minutes or less
15 than a minute?

16 A. Probably less than a minute.

17 MR. COMBS: Could we pull up Government's
18 Exhibit 128B. It's already been admitted into evidence.

19 Or, I'm sorry, 127B.

20 BY MR. COMBS:

21 Q. Ma'am, now, this is a picture that's already been
22 admitted into evidence. It's a picture of the defendant.

23 Are those some protective -- manners of protective
24 gear that you might see around a hospital?

25 A. Yes.

1 And for what you were describing for a code or a
2 trauma patient, it would be all of that minus the
3 aqua-colored N95 mask that's underneath the surgical mask.

4 Q. Okay. And that's the type of equipment you talked
5 about you could don very quickly; is that right?

6 A. Yes.

7 Q. Now, that, you know, is on him there. But when it's,
8 you know, folded up in its folded state, would all of
9 that -- that is, the gown and the mask and the face mask
10 and the head covering -- would that all be able to be
11 stuffed in a backpack fairly easily?

12 A. Yes, because when you take it out of the bag that it
13 comes in, it's actually very compact. And so a backpack
14 would be able to contain all of that rolled up as well,
15 yes.

16 Q. Okay. And there's been prior testimony that Mr. Ashley
17 arrived at Mr. Seegan's home at 9:31 a.m. and about 45
18 minutes later a garage camera activates, and there's
19 testimony that that's believed to be a gunshot that
20 activates that.

21 Is that plenty of time for somebody to don that
22 type of protective gear?

23 A. Yes.

24 Q. Now I'd like to --

25 MR. COMBS: If we could take that down, please.

1 Thank you.

2 BY MR. COMBS:

3 Q. I'd like to talk to you a little bit more about
4 toxicology. Are you aware, because you've reviewed the
5 materials in this case and listened to the testimony today,
6 that Mr. Seegan was found to have etomidate in his blood?

7 A. Yes.

8 MR. COMBS: Can we pull up Government's
9 Exhibit 98, page 4, please.

10 Page 4, please.

11 BY MR. COMBS:

12 Q. And down in the Drug Screen section -- do you see that?

13 A. Yes.

14 Q. "Etomidate detected," is that what that says?

15 A. Yes.

16 Q. Now, if somebody comes in to the Medical Examiner's
17 Office and no medical procedures, either lifesaving or
18 resuscitative measures or any other medical procedures,
19 have been preformed on them within the last day, would you
20 ever expect to see etomidate in their blood?

21 A. No. That's a huge red flag.

22 Q. Why?

23 A. Because it would not be uncommon -- if somebody came in
24 as a trauma patient and had to get intubated because they
25 had a head injury and subsequent to your attempting to

1 resuscitate them they ended up dying and that becomes a
2 medical examiner case, the medical examiner is used to
3 finding some of our resuscitation drugs postmortem, like
4 atropine. Atropine is a drug that we would use to restart
5 the heart.

6 And obviously the atropine is not significant for
7 the cause of death, or the etomidate that's present or any
8 other drug that was used in resuscitation is not applicable
9 to why somebody died. So they are used to seeing those
10 drugs in that circumstance.

11 If somebody was to die on the table during
12 anesthesia, you would find those anesthetic agents present;
13 but that's not applicable to the cause of death unless
14 somebody had a reaction to that drug.

15 So to find etomidate in this situation is a very
16 large red flag because this is in a patient that did not
17 have anything -- did not -- was not resuscitated in a
18 hospital setting or had a type of procedure in the hospital
19 setting.

20 Q. Now, does etomidate last very long in the system?

21 A. No.

22 Q. Why not?

23 A. Well -- so when we talk about different parameters in
24 pharmacology, which is the time of onset of a drug or the
25 duration of effect of a drug or the elimination half-life,

1 these are different parameters of a medication. And
2 etomidate is what we call fast-on/fast-off kind of drug.
3 So the time of onset is seconds, and the duration of effect
4 is just a few minutes.

5 And then even though the effect has worn off
6 because we are trying to make somebody unconscious, which
7 is in the brain, it's still going to be in the blood for
8 some length of time. And the half-life of etomidate,
9 meaning how long it takes to split itself in half, is about
10 4 hours.

11 And in pharmacology we say that it takes about
12 five half-lives for a drug to completely become
13 undetectable. So if the half-life is about 4 hours, then
14 in five half-lives, that's about 20. So 20 -- after 20
15 hours it should be completely gone and not detected in the
16 body anymore.

17 Q. So if the testimony was that Mr. Seegan was home the
18 night before and then went nowhere that morning until he
19 met Keith Ashley for his blood appointment at 9:30 and he
20 never went anywhere during this time and, in fact, his
21 phone doesn't move, would you expect etomidate to be in his
22 blood if he had received medical treatment days before?

23 A. No.

24 Q. The -- do you have an opinion, having reviewed the case
25 materials in this case, as to how long before Mr. Seegan

1 was shot that etomidate was administered to him?

2 A. I would not be able to pinpoint an exact time just
3 knowing that etomidate is present. And that's a huge red
4 flag in and of itself because it should not be there in any
5 circumstance. But there is nothing that you can look at in
6 the toxicology testing to tell you what time the medication
7 was administered.

8 Q. Okay. If Mr. Seegan -- first of all, Mr. Seegan is not
9 a medical professional. There's been testimony about that.
10 He's a retired person and has no access to emergency rooms.

11 Would you expect somebody in Mr. Seegan's position
12 to have access to or have etomidate?

13 A. Absolutely not.

14 Q. Is it even a drug that's widely known?

15 A. No. There are obviously drugs that are used in the
16 hospital setting, like fentanyl which, as you all know, has
17 a huge illicit street market problem going on right now.

18 Ketamine is another type of drug that we would use
19 for procedures, and that is known on the street as "Special
20 K."

21 So these are drugs that are used in the hospital
22 setting that have some sort of street market, but etomidate
23 is not one of those. It is not a drug that I have ever
24 encountered -- in all of the legal cases that I review, I
25 have never seen it outside of the hospital setting until

1 now.

2 Q. So the testimony up until now has been that there were
3 no needles found in the house anywhere. There's no vial of
4 etomidate found in the house.

5 So even if Mr. Seegan had been able to find a vial
6 of etomidate and let's say he was sitting in his office and
7 he shot himself with etomidate, would he have time before
8 that etomidate took effect to take that vial, take that
9 used syringe, go out to the alley, dump it in the trash can
10 out in the alley, walk back up the stairs, sit down, and
11 take his own life before that etomidate took effect?

12 A. Absolutely not.

13 When I said that etomidate is a fast-on/fast-off
14 kind of drug, when we administer it in the emergency
15 department setting, the individual becomes incapacitated
16 within seconds.

17 Q. Within seconds?

18 A. Yes.

19 Q. So may not even make it out of his chair or make it to
20 the door if he did that. Is that fair?

21 A. A minute tops.

22 Q. A minute.

23 So you talked and there were some questions -- I'm
24 sorry. You didn't talk about it, but there were some
25 questions earlier about the accessibility of etomidate to

1 medical professionals within the hospital setting.

2 Do you remember hearing that testimony?

3 A. Yes.

4 Q. And have you had a bit of experience -- in fact, quite
5 a lot of experience -- in investigating medical
6 professionals who are involved in poisonings, deadly
7 poisonings?

8 A. Yes.

9 Q. Describe that for the members of the jury, please.

10 A. Well, as a expert in medical toxicology, poisonings are
11 what we are always involved in.

12 And what is unusual is that health care workers,
13 whether it be doctors or nurses, tend to have an unusual
14 propensity to being poisoners.

15 We had lectures about this at one of our forensic
16 toxicology conferences where we discussed a lot of
17 historical poisonings over time committed by health care
18 workers.

19 And it's very, very strange mentality of these
20 individuals that would tend to cause them to poison and
21 there are a lot of theories as to why, but they do have a
22 tendency to use drugs or other kinds of poisons to attempt
23 or commit murder.

24 Q. And you've worked on some fairly prominent cases
25 involving doctors and other medical professionals who have

1 poisoned people; is that right?

2 A. Yes.

3 Q. There is one recently out of Houston. Can you tell the
4 jurors about that?

5 A. This --

6 MR. SANDEL: Object to the relevance, your Honor.

7 MR. COMBS: Goes to the scope of her knowledge,
8 your Honor.

9 THE COURT: Overruled.

10 BY MR. COMBS:

11 Q. Can you tell the jurors about the case in Houston?

12 A. This was a case where a prominent oncologist -- and an
13 oncologist is a cancer doctor.

14 So at MD Anderson, which is the cancer center in
15 Houston, there was a female physician who had a type of
16 "fatal attraction" for her colleague who was also an
17 oncologist; and she poisoned him with ethylene glycol,
18 which is the chemical in antifreeze except for that this
19 ethylene glycol came from her research laboratory as pure
20 ethylene glycol. And so she put the ethylene glycol in his
21 coffee, and that became an internationally known case on a
22 bunch of different crime shows.

23 Q. So it's not unknown to you or your profession that
24 medical professionals would take their knowledge and turn
25 it toward murder; is that right?

1 A. That's right.

2 And there is another case that I'm sure you've
3 also heard about here in Dallas recently involving --

4 MR. SANDEL: Object to the relevance, your Honor.

5 MR. COMBS: The same, your Honor, the --

6 THE COURT: Overruled.

7 A. An anesthesiologist in Dallas within the last few
8 weeks -- I'm sure you may have heard of on the news -- who
9 tainted bags of IV fluids with bupivacaine, which is an
10 anesthetic.

11 BY MR. COMBS:

12 Q. And did that result in death?

13 A. It did.

14 Q. Thank you.

15 MR. COMBS: Pass the witness.

16 THE COURT: Cross-examination?

17 CROSS-EXAMINATION OF STACEY HAIL

18 BY MR. SANDEL:

19 Q. Good afternoon, Dr. Hail. How are you?

20 A. Fine.

21 Q. Just a few questions. I wanted to follow up on a few
22 things that you spoke with Mr. Combs about, okay?

23 First thing, when it comes to etomidate, I believe
24 you said that typically it's used in an emergency room
25 setting, correct?

1 A. Correct.

2 Q. However, it can be used in other areas of the hospital;
3 is that true?

4 A. Yes.

5 Q. And, you know, typically that would be other areas of
6 the hospital that would require anesthesia or those types
7 of procedures, right?

8 A. Right.

9 Q. So that might be an operating room, correct?

10 A. Correct.

11 Q. Could you potentially find etomidate, as it's an
12 intubation-type medication, on a standard wing of a
13 hospital in a crash cart or in something like that?

14 A. I don't know if -- because I don't work in those areas
15 of the hospital. But I will say that unlike the emergency
16 department where we have crash carts in our critical care
17 rooms, on the hospital floor generally those crash carts
18 are going to be kept in a secured area.

19 Q. Would that be like a -- like a Pyxis machine?

20 A. No. It would be like in a closet that you would have
21 to badge into or out of.

22 Q. I see.

23 So the general hospital area could have etomidate,
24 but you may have to badge-in to get to it?

25 A. Yes.

1 And, I mean, I heard the testimony that etomidate
2 is in the crash carts in some facilities and it makes it
3 sound like you can just waltz in and get it, but it's not
4 as easy as that sounds.

5 Q. Okay. Or at least it's not supposed to be.

6 A. Right.

7 Q. Okay. Now, the other -- one of the other things you
8 were speaking to Mr. Combs about as it relates to etomidate
9 is its effects on an individual.

10 Do you recall that?

11 A. Yes.

12 Q. And I think you said that it would incapacitate a
13 patient within about a minute. Is that fair?

14 A. Yes.

15 Q. Okay. Now, that assumes that that patient has been
16 dosed properly, correct?

17 A. Correct.

18 Q. What is the -- if you know -- the standard
19 pharmacological dose of etomidate? How much do you have to
20 give somebody to incapacitate them?

21 A. Generally 20 milligrams.

22 Q. 20 milligrams.

23 And does that go up or down dependent on body
24 weight?

25 A. It does.

1 Q. Okay. And can other factors go into that calculation?
2 For example, isn't it true that different individuals react
3 differently to medication? Is that fair?

4 A. Sure.

5 Q. So is it true that whereas 20 milligrams might be
6 enough for one patient, another patient might require more
7 or less, depending on the individual?

8 A. Yes.

9 Q. Okay. Do you know what would be the effect on an
10 individual if they're given, let's say, a half of a dose of
11 etomidate?

12 A. Well, they would still suffer from pretty significant
13 central nervous system depression, meaning that they will
14 become very, very sleepy or very unaware of their
15 surroundings.

16 Q. So sluggish, that sort of thing?

17 A. Yes.

18 Q. Now, another -- well, I'll ask it this way: Have you
19 heard of the drug propofol?

20 A. Yes.

21 Q. What is propofol?

22 A. Propofol is a similar medication to etomidate.
23 Propofol looks like white milk in an upside-down milk
24 bottle, and it is the agent that was actually used on
25 Michael Jackson that caused him to die.

1 And propofol is also a fast-on/fast-off type of
2 anesthetic and we can use those for procedures, and then we
3 also keep people sedated on a ventilator using propofol
4 dripping into the vein.

5 Q. So -- and I -- you kind of read my mind. So propofol
6 was the drug that became the context of discussion around
7 the Michael Jackson case, correct?

8 A. Correct.

9 Q. And the reason that he was being administered propofol
10 was basically to help him sleep; is that right?

11 A. That's what I heard. But we're talking about Michael
12 Jackson so --

13 Q. Sure.

14 But it's fair to say that prior to that case, was
15 propofol a drug that the mainstream public had ever heard
16 about?

17 A. No.

18 Q. Okay. And so we're talking about etomidate, and you
19 made some reference to ketamine and other emergency room
20 drugs that do have this presence on the street.

21 But there are drugs out there that are used in
22 illicit ways that maybe we just don't hear about very
23 often; is that fair?

24 A. Yes, but remember that the propofol that was
25 administered to Michael Jackson was administered by his

1 physician.

2 Q. And since that Michael Jackson issue, have you seen any
3 type of increase in propofol or cases involving propofol?

4 A. No.

5 Q. Now, propofol and etomidate, you discussed those with
6 Mr. Combs. They both need to be administered
7 intravenously, correct?

8 A. Yes.

9 Q. And do you know if they are ingested orally, would they
10 simply not work; or what would that do if somebody were to
11 just drink a vial of etomidate?

12 A. Well, part of the metabolism of etomidate is that it is
13 metabolized by the liver. And drugs that have what's
14 called a high first-pass effect, meaning that -- everything
15 that you ingest goes into your stomach and then into the
16 first part of your intestine and then it gets absorbed into
17 the liver and the liver does things to change that drug.

18 And so there are drugs that have such an extensive
19 first-pass mechanism going through the liver that it
20 renders them so ineffective, like, for example, Narcan.

21 Narcan is the drug that we use to resuscitate
22 people if they are, you know, opioid toxic like from
23 fentanyl or heroin. And Narcan has such a high first-pass
24 effect that when taken orally, it doesn't do anything. So
25 if somebody is unconscious and barely breathing from an

1 opioid, you either have to give the Narcan through the nose
2 or sublingual or IV.

3 And so I suspect that if you were to give
4 etomidate by mouth, that it would have such a high
5 first-pass effect that it would be ineffective. But truth
6 be told, I've never tried that before.

7 Q. So based on your expertise and what you know, if
8 somebody were to ingest etomidate, your best opinion would
9 be it really wouldn't have an effect on them one way or the
10 other?

11 A. It shouldn't -- it shouldn't have a large effect.

12 Q. Do you know if it would still be detectable in the
13 person's bloodstream?

14 A. Yes. I would think that it would be absorbed. But,
15 like I said, it would get metabolized to other metabolites
16 that are not active; and so it would probably be a lot
17 smaller amount than what you would see from IV.

18 Q. Okay. Now when we're talking about intravenous
19 injections, where typically -- if somebody is trained to
20 give an IV, where on the body do you typically do that? Is
21 there a part of the body that's preferred?

22 A. Well, obviously, we always look in the arms first.
23 But, you know, at Parkland where I work, we have a lot of
24 addicted patients that are IV drug users; and so we often
25 will puncture wherever we can find a vein in those

1 circumstances.

2 Q. But typically when you're looking to give a patient an
3 IV or administer an IV drug, you are looking at the arm
4 first, correct?

5 A. Correct.

6 Q. And then could you also look maybe at the back of the
7 hand?

8 A. Yes.

9 Q. Okay. And that's kind of your first two stops on
10 administering an IV drug. That's where a typical nurse
11 would look first, correct?

12 A. Yes.

13 Q. Okay. Do you have any idea or is there any way to tell
14 how long it would take a puncture mark like that to heal?

15 A. Well, that's a great question. I don't know that there
16 is a straightforward answer to that because obviously doing
17 a lot of federal drug crime, I see a lot of patients that
18 have clearly died from fentanyl or from heroin that was
19 injected and you see the syringe and the needle at the
20 scene. But then you look at the body and unless they have
21 track marks from using drugs a lot, puncture wounds can be
22 very, very difficult to see.

23 Q. Okay. And is that something that, you know, the
24 medical examiners are typically looking for when they are
25 examining those bodies?

1 A. Yes. I mean, they're supposed to write down all of
2 their findings.

3 Q. Sure.

4 Going back to etomidate access, okay, you said
5 that it shouldn't be easy for just anybody to walk into a
6 hospital and get it, correct?

7 A. Correct.

8 Q. Now, when we're looking at the emergency room
9 specifically, is that area typically more secure than other
10 wings of the hospital?

11 A. I would have to say that -- I mean, I work at Parkland
12 and we have our own police force so it's -- my perspective
13 may be not what is seen in the community.

14 But basically for -- you know, getting into any
15 part of the hospital requires some level of security; but
16 probably the emergency department may be one of the most
17 secure.

18 Q. Okay. Thank you, Dr. Hail. I appreciate that.

19 MR. SANDEL: Judge, I'll pass the witness.

20 THE COURT: Additional questions?

21 MR. COMBS: Yes, your Honor.

22 REDIRECT EXAMINATION OF STACEY HAIL

23 BY MR. COMBS:

24 Q. Now, ma'am, if someone were to be giving blood and they
25 were sitting down like this and they had their arm propped

1 up and, unbeknownst to them, they got shot up with
2 etomidate rather than somebody taking their blood and they
3 quickly fell asleep or were sedated, would there be time
4 for the individual who just shot them with etomidate to
5 gown up, put on all the protective clothing so as not to
6 have blood spatter on them, and shoot that person before
7 they woke up?

8 A. Well, yes, because the duration of effect of etomidate
9 is about 5 minutes. And so that's why it is an ideal agent
10 to use for short procedures in the emergency department
11 where you don't want to snow somebody after a procedure in
12 the emergency department setting. It's not like going and
13 getting a big surgery and getting anesthesia and then
14 you're groggy for hours and have to go to the recovery
15 room. We want our patients to move quickly in and out of
16 the ER.

17 So if you're putting the shoulder back in or
18 cutting open an abscess and even after intubating somebody,
19 you have got about 5 minutes before you -- they start
20 waking up and bucking the vent and you need to start
21 another sedative.

22 So, you know, at least -- you have at least
23 5 minutes; and that could certainly be enough time to do
24 those things.

25 Q. Okay. Thank you.

1 MR. COMBS: Pass the witness.

2 THE COURT: Anything else?

3 MR. SANDEL: Very briefly, your Honor.

4 RECROSS-EXAMINATION OF STACEY HAIL

5 BY MR. SANDEL:

6 Q. Mr. Combs just asked you about a hypothetical with
7 giving blood.

8 When etomidate is injected, that's in a syringe,
9 correct?

10 A. Yes.

11 Q. And when you're giving blood, that's usually done in
12 like a glass tube; is that fair?

13 A. Yes, you can use a butterfly needle; and then it has a
14 long tube to put into a -- like a vacuum container.

15 Q. Uh-huh.

16 A. Or you can start an IV and draw blood out of the IV.

17 Q. Okay. And that would be more typical of if you were in
18 a hospital setting, correct?

19 A. Yes.

20 Q. Okay. Now, you also talked about this kind of 5-minute
21 window and that at the end of that 5 minutes, the patient
22 may start, I think you said, bucking the tube.

23 Is that what you said?

24 A. Yes, because having a tube down your throat is very
25 uncomfortable, as you can imagine. And if you're being

1 intubated for a reason that doesn't affect your brain, like
2 you're having, you know, respiratory failure from pneumonia
3 but your brain is fine, you're going to wake up and you're
4 going to feel that tube and you're going to, you know,
5 start moving around a lot and it's uncomfortable.

6 Q. And so if that occurs, you said what you have to do is
7 give them another dose of either etomidate or some other
8 sedative, correct?

9 A. Yeah. Generally, we would start dripping propofol.

10 Q. Okay. Thank you, Dr. Hail.

11 MR. SANDEL: Nothing further, your Honor.

12 THE COURT: Can this witness be fully excused?

13 MR. COMBS: Yes, please, your Honor.

14 MR. SANDEL: Yes, your Honor.

15 THE COURT: Ma'am, you are free to leave. Thank
16 you.

17 Okay. What's next?

18 MS. RATTAN: The United States calls Carla
19 DeNeui-Simonsen.

20 THE COURT: Ma'am, if you'll raise your right hand
21 to be sworn in.

22 (The oath is administered to the witness.)

23 THE COURT: Go ahead and proceed.

24 MS. RATTAN: Your Honor, may we have just a
25 moment?

1 THE COURT: Yes.

2 (Off-the-record discussion among counsel.)

3 MS. RATTAN: Thank you, your Honor.

4 DIRECT EXAMINATION OF CARLA DENEUI-SIMONSEN

5 CALLED ON BEHALF OF THE GOVERNMENT

6 BY MS. RATTAN:

7 Q. Will you please state your name.

8 A. Carla DeNeui-Simonsen.

9 Q. And you have a soft voice. Can you speak as closely to
10 the microphone as possible?

11 A. Carla DeNeui-Simonsen.

12 Q. Will you spell your last name.

13 A. D-E-N, as in "Nancy," E-U-I-S-I-M-O-N-S-E-N.

14 Q. And where do you work?

15 A. Midland National Life.

16 Q. Will you describe for the jury what you do at Midland
17 National Life?

18 A. I am a call taker in the claims department.

19 Q. Call taker in what department?

20 A. Claims department.

21 Q. The claims department.

22 So what are your responsibilities?

23 A. I am in a call queue where I take calls as they come in
24 and answer. They could be anywhere from death claims to
25 disability claims.

1 Q. How long have you been working at Midland life?

2 A. It will be 32 years in December.

3 Q. Okay. Let me ask you about the date of February 20th
4 of 2020.

5 So I know you may not be familiar with the chart
6 that we're working on here, but here's the date
7 February 19th of 2020; is that right?

8 A. Yes.

9 Q. So we're talking about the day after that,
10 February 20th of 2020.

11 Were you working on that date at Midland life?

12 A. Yes.

13 Q. Have you reviewed a call that you took on February 20th
14 of 2020?

15 A. Yes.

16 Q. And is that call accurate as far as what happened when
17 you took the call that day?

18 A. Yes.

19 Q. There haven't been any changes, additions, deletions,
20 anything like that?

21 A. No.

22 Q. And you recognized your voice?

23 A. Yes.

24 MS. RATTAN: Your Honor, I believe this has
25 already been admitted as Government's Exhibit 105.

1 THE COURT: Yes, it has.

2 MS. RATTAN: May we publish Government's
3 Exhibit 105?

4 THE COURT: Yes, you may.

5 (Audiovisual presentation to the jury.)

6 BY MS. RATTAN:

7 Q. So what's going on in this conversation?

8 A. I was taking a death claim call.

9 Q. And it was from an agent; is that right?

10 A. Correct.

11 Q. And he identified himself as Keith Ashley?

12 A. Yes.

13 MS. RATTAN: Your Honor, may we publish
14 Government's Exhibit 106, page 1?

15 THE COURT: Yes, you may.

16 MS. RATTAN: And if we can look at the top of the
17 page.

18 BY MS. RATTAN:

19 Q. It has the date there that we were talking about,
20 February 20th of 2020; your name, Carla; and then the agent
21 calling in is Keith Ashley; is that right?

22 A. Yes.

23 Q. And he identifies himself on line 14 and he says his
24 name is Keith Ashley and he gives his agent code and you
25 call him Keith; is that right?

1 A. Yes.

2 Q. Now let me direct your attention to the bottom of the
3 page, 106, page 1, line 25.

4 And you asked for the name of the insured. And it
5 goes on to page 2 of Government's 106, rather. And he
6 gives you the name of the insured. He says it's James E.
7 Seegan. And then you ask how you can help out on the
8 policy today; is that right?

9 A. Yes.

10 Q. And then what does he tell you?

11 A. That he -- we needed to start a death claim.

12 Q. Okay. So basically that Mr. Seegan has died; is that
13 right?

14 A. Yes.

15 Q. That he's deceased. So he's calling you the very next
16 day and telling you that Mr. Seegan has died?

17 A. Yes.

18 Q. And then you talk about what's going to happen, how
19 he's going to get the forms.

20 What's going on with that? What is that
21 discussion?

22 A. Just to be helpful, to let him know what our process is
23 and if he would like to pull the forms from the Web page,
24 that he is more than welcome to do that as well.

25 Q. And is he concerned about -- or does he mention,

1 rather, I guess, the family being notified as well?

2 A. Yes.

3 MS. RATTAN: If we can look on 106, page 3,
4 lines 6 through 9.

5 BY MS. RATTAN:

6 Q. Let's see. He's the agent of record. "But if you guys
7 are going to send 'em, I don't want to duplicate the family
8 members."

9 So is he asking if you are going to notify the
10 family, essentially?

11 A. Yes.

12 Q. Then if we look at 106, page 4, lines 5 through 7, you
13 say that you're going to locate the other one. What do you
14 mean by "the other one"?

15 A. At the beginning of the call, he had mentioned there
16 was a couple policies.

17 Q. So you talk about the first policy because he's given
18 you that number, and now you're going to talk about the
19 second policy?

20 A. Correct.

21 Q. Okay. And then this one, he says that there is a
22 spouse; is that right?

23 A. Correct.

24 Q. So what's kind of going on here?

25 A. It would be the same with the first policy. We would

1 get both policies set up and get two claim packets sent
2 out.

3 Q. Okay. And then he gives you the address and you talk
4 about emailing him the documents?

5 A. Yes.

6 Q. Okay.

7 MS. RATTAN: I'll pass the witness, your Honor.

8 THE COURT: Cross-examination?

9 MS. RATTAN: Oh, I have one more question.

10 THE COURT: Go ahead.

11 MS. RATTAN: May I?

12 Let me approach the witness -- with your
13 permission?

14 THE COURT: Yes.

15 BY MS. RATTAN:

16 Q. Let me show you this and ask you if this --
17 February 20th of 2020, Ashley calls Midland life and says
18 James Seegan passed away last night and tells -- talks
19 about the paperwork.

20 A. Yes.

21 MS. RATTAN: Thank you. I'll pass the witness,
22 your Honor.

23 CROSS-EXAMINATION OF CARLA DENEUI-SIMONSEN

24 BY MR. WHALEN:

25 Q. Good afternoon. I apologize. I didn't catch your

1 name.

2 A. Carla DeNeui-Simonsen.

3 Q. Okay. Ms. Simonsen --

4 A. That will work.

5 Q. How are you today?

6 A. I am well. Thank you.

7 MR. WHALEN: If we could go to 106, page 4,
8 please.

9 BY MR. WHALEN:

10 Q. And we look at that exchange on line 15 through
11 line 19. Do you see that there?

12 A. Yes.

13 Q. And you asked Mr. Ashley (as read): "All right. Are
14 there any changes to their address that we have in our file
15 that you know of?"

16 And what is his answer? What does he say to you?

17 A. He said, "No." It is -- it is correct.

18 Q. Okay. If -- and I don't know. If he had said, "Yes,
19 there are changes. Let me give you a new address," would
20 you have changed it?

21 A. We would have updated it.

22 Q. Okay. And you would have mailed it out to the address
23 that he gave you, correct?

24 A. Correct.

25 Q. Okay. But the 2114 Cannes Drive in Carrollton, Texas,

1 is what he gave you and said there were no changes,
2 correct?

3 A. Correct.

4 Q. And basically what you're telling him in this phone
5 call, that you're going to mail a packet out to the address
6 in Carrollton, Texas; is that correct?

7 A. That is correct.

8 Q. And that would notify the family of what they need to
9 do to file a claim to obtain the life insurance proceeds,
10 correct?

11 A. Correct.

12 Q. Okay. And is it fair to say that if you don't file the
13 claim, you will not act on sending the proceeds? Correct?

14 A. Correct.

15 Q. Okay.

16 MR. WHALEN: I'll pass the witness.

17 THE COURT: Anything additional?

18 MS. RATTAN: Just briefly.

19 REDIRECT EXAMINATION OF CARLA DENEUI-SIMONSEN

20 BY MS. RATTAN:

21 Q. Keith Ashley is an agent with Midland life, and he
22 gives you his agent number; is that right?

23 A. That is correct.

24 Q. Everybody knows the lines are recorded; is that right?

25 A. Yes.

1 MS. RATTAN: That's all, your Honor.

2 THE COURT: Okay. Can this witness be fully
3 excused?

4 MS. RATTAN: Yes, please.

5 THE COURT: Okay. Ma'am, you are free to leave.
6 Thank you.

7 What's next?

8 MS. RATTAN: Your Honor, may we approach?

9 THE COURT: Yes.

10 (Sidebar conference, off the record.)

11 THE COURT: Okay. Your next witness?

12 MS. RATTAN: Your Honor, the United States calls
13 Samantha Larsen.

14 THE COURT: Can we get her a lapel mic?

15 Ma'am, I'm going to have you raise your right
16 hand -- you can stay seated, but if you'll raise your right
17 hand to be sworn in.

18 (The oath is administered to the witness.)

19 THE COURT: Go ahead, Ms. Rattan.

20 MS. RATTAN: May I proceed?

21 THE COURT: Yes.

22 DIRECT EXAMINATION OF SAMANTHA LARSEN

23 CALLED ON BEHALF OF THE GOVERNMENT

24 BY MS. RATTAN:

25 Q. Please state your name.

1 A. Samantha Larsen.

2 Q. Ms. Larsen, where do you work?

3 A. Midland National.

4 Q. And you spell Larsen, L-A-R-S --

5 A. E-N.

6 Q. L-A-R-S-E-N.

7 A. Uh-huh.

8 Q. What do you do at Midland National?

9 A. I'm a senior claims representative.

10 Q. And what is Midland National?

11 A. A life insurance company.

12 Q. How long have you worked at Midland National Life?

13 A. Sixteen years.

14 Q. Let me ask you about February 20th of 2020.

15 Have you reviewed a call that you were involved in
16 from that date?

17 A. Yes.

18 Q. And have you made sure that the call is accurate and
19 there haven't been any changes to it?

20 A. Yes.

21 MS. RATTAN: Your Honor, I believe it's previously
22 been admitted as -- the call is 107 and the transcript is
23 108.

24 THE COURT: That is correct.

25 MS. RATTAN: May we publish both of them?

1 THE COURT: Yes, you may.

2 MS. RATTAN: Thank you.

3 (Audiovisual presentation to the jury.)

4 MS. RATTAN: May we focus on the transcript, which
5 is Government's Exhibit 108.

6 BY MS. RATTAN:

7 Q. Now, this is one of the agents calling in; is that
8 right?

9 A. Correct.

10 Q. And he says his name is Keith Ashley?

11 A. Correct.

12 Q. He says he's calling about a specific policy. And
13 whose policy is it?

14 A. Mr. James Seegan.

15 Q. James E. Seegan?

16 A. Correct.

17 Q. And does he tell you why he's calling about the policy?

18 A. Later in the call he mentions that he passed away.

19 Q. Does he say how recently he's passed away?

20 A. In the call I believe he says he passed away the day
21 before.

22 Q. And does he tell you how many policies he has?

23 A. Two.

24 Q. He says that they are filing a death claim. And does
25 he seem concerned -- let me direct your attention to 108,

1 page 2, lines 19 through 25.

2 Can you see it on the screen at the --

3 A. Yes.

4 Q. -- front of the room?

5 A. Uh-huh.

6 Q. He says that the death claim is filed -- and this is
7 line 19. (As read): "The death claim is filed. He, uh,
8 passed away last night. But the question I have is will
9 the family, now that we have filed the claim, be able to
10 access his accounts online or do you-all lock them."

11 And then you say?

12 A. "It gets locked down."

13 Q. And then on the next page, Government's 108 page 3, he
14 tells you -- if we look at lines 3 through 7, he says (as
15 read): "Perfect. That's just what we wanted to make sure
16 of."

17 And then he says, "because we don't want any
18 hankey (*sic*) stuff goin' on."

19 And is that the conversation that you had with
20 him?

21 A. Yes.

22 MS. RATTAN: I'll pass the witness.

23 THE COURT: Cross-examination?

24 *

25 *

1 CROSS-EXAMINATION OF SAMANTHA LARSEN

2 BY MR. WHALEN:

3 Q. Ms. Larsen, how are you?

4 A. I'm good, sir. How are you?

5 Q. Real quick. When it said a death claim had been filed,
6 a claim hadn't been filed. You simply had received
7 notification that Mr. Seegan had passed, correct?

8 A. I'm sorry. Can you repeat that for me?

9 Q. In the transcript it says a death claim had been filed.

10 A. Correct.

11 Q. A claim hadn't been filed yet, correct?

12 A. No, the claim had been filed. It was on the system.

13 Q. Okay. But is it a notification, or is there a form
14 that you have to file?

15 A. When you're filing a claim, you can call in to our
16 office and file over the phone.

17 Q. Okay. And so -- but you also send out a packet,
18 correct?

19 A. We do.

20 Q. Okay. And what's in the packet?

21 A. A claims form.

22 Q. Okay. And do you have to send the claims form in with
23 a Death Certificate?

24 A. Correct.

25 Q. Okay. So just because somebody has notified you of

1 someone's death, you're not going to be paying the claim
2 until you get that form back, correct?

3 A. Correct. We would need the form and Death Certificate
4 back for review.

5 Q. Okay. And when -- during this phone call there was a
6 mention of two policies; is that correct?

7 A. Correct.

8 Q. And there were, in fact, two policies, correct?

9 A. I don't recall.

10 Q. Okay. And then as far as locking down the account, why
11 does Midland National do that?

12 A. So that no additional changes can be made.

13 Q. Okay. And if I'm a family member and that's a question
14 I have, is that something I might ask my agent, "Am I going
15 to be able to access it online?"

16 A. It can be asked both of the agent or a representative
17 over the phone.

18 Q. Okay. And so an agent could find out for me and tell
19 me, as the policyholder, "Yes, you're not going to be able
20 to access it because it's locked," correct? Is that fair?

21 A. Correct.

22 MR. WHALEN: Okay. I'll pass the witness.

23 THE COURT: Anything else?

24 MS. RATTAN: No, your Honor. Thank you.

25 THE COURT: Can this witness be fully excused?

1 MS. RATTAN: Yes, please.

2 THE COURT: Mr. Whalen?

3 MR. WHALEN: Yes, your Honor.

4 THE COURT: Okay. Ma'am, you are free to leave.

5 Thank you.

6 THE WITNESS: Thank you.

7 THE COURT: Ms. Rattan, what's next?

8 MS. RATTAN: We will re-call Courtney Jacobson.

9 THE COURT: You can go ahead and take the stand.

10 Ma'am, you understand you're still under oath from
11 your prior testimony?

12 THE WITNESS: I do.

13 THE COURT: Okay. Ms. Rattan, go ahead.

14 MS. RATTAN: Thank you, your Honor.

15 DIRECT EXAMINATION OF COURTNEY JACOBSON

16 RECALLED ON BEHALF OF THE GOVERNMENT

17 BY MS. RATTAN:

18 Q. I know you've testified before, but please state your
19 name again.

20 A. Courtney Jacobson.

21 Q. And where do you work?

22 A. Midland National Life Insurance.

23 Q. And what are your duties there?

24 A. I am the AVP, associate chief underwriter. So I lead
25 the underwriting team.

1 Q. And you've testified earlier in the trial?

2 A. I have.

3 Q. Now, the events that we testified -- or you testified
4 about earlier related to James Seegan, victim James Seegan,
5 who is one of your insureds; and you testified about paying
6 out two separate checks on the -- James Seegan's life
7 insurance policies; is that right?

8 A. That is right.

9 Q. Now, those policies were paid out, based on your
10 previous testimony, in the spring of 2020; is that correct?

11 A. That is correct.

12 Q. Now I want to back up to 2018 and ask you about your
13 agent, Keith Ashley, and a policy that he presented to
14 Midland life in 2018.

15 Let me direct your attention to Government's
16 Exhibit 118A, and it's on a person by the name of Paul
17 Villarreal. Have you reviewed the documents that were
18 submitted to Midland life in relation to Paul Villarreal?

19 MS. RATTAN: Your Honor, may we publish
20 Government's Exhibit 118A?

21 THE COURT: Yes, you may.

22 BY MS. RATTAN:

23 Q. And this is page 1 of Government's Exhibit 118A. Can
24 you explain what this is?

25 A. This is the application for life insurance.

1 Q. And it's, of course, with your company, Midland
2 National Life.

3 A. Yes.

4 Q. And the name of the proposed insured is Paul
5 Villarreal; is that right?

6 A. That is correct.

7 Q. And does it say where Mr. Villarreal works?

8 A. Yes.

9 Q. And what does it say?

10 A. Nine Band Brewing Company.

11 Q. Nine Band Brewing Company.

12 And it says what his job is. What is that?

13 A. A brewing assistant.

14 Q. And does it say his annual income?

15 A. Yes.

16 Q. And what is that?

17 A. 50,000.

18 Q. And does it say what his net worth is?

19 A. Yes.

20 Q. What is that?

21 A. 200,000.

22 MS. RATTAN: And if we can go to -- down on the
23 same page, page down a little bit.

24 Right there.

25

*

1 BY MS. RATTAN:

2 Q. And this is the plan information. So it has the amount
3 that's being applied for for Paul Villarreal, who works at
4 Nine Band Brewing as a brewery assistant.

5 What's the amount of life insurance that's being
6 applied for for Mr. Villarreal?

7 A. 400,000.

8 Q. And then let me direct your attention to Government's
9 Exhibit 118A, page 3.

10 And then this is all part of the same application
11 for Paul Villarreal.

12 MS. RATTAN: And if we can look at the bottom of
13 page 3.

14 BY MS. RATTAN:

15 Q. Okay. Will you tell us what's going on here?

16 A. This is the beneficiary section in which they name the
17 beneficiary of the policy that will receive the proceeds.

18 Q. So it's going to be -- or proposed to be a \$400,000
19 life policy on Paul Villarreal?

20 A. Yes.

21 Q. And then this is the section of the proposed policy
22 that says who's going to get the money if something happens
23 to Mr. Villarreal?

24 A. Correct.

25 Q. And who does it say that the beneficiary is going to be

1 if something happens to Mr. Villarreal?

2 A. Keith Ashley.

3 Q. And then when you testified before, you talked to the
4 jury about an insurable interest. What is an insurable
5 interest?

6 A. It must be present at the time of application. It will
7 be either a dependent of the insured or someone who could
8 suffer a financial loss upon the death of the insured.

9 Q. And so here, the relationship to the proposed insured,
10 is that why that question is asked on the application?

11 A. Can you rephrase that question? I'm not sure --

12 Q. Well, as part of the application, Midland life wants to
13 know what the beneficiary's relationship is to the insured;
14 is that right?

15 A. Yes. We need to establish insurable interest prior to
16 approval.

17 Q. So that's why you're asking the question?

18 A. Correct.

19 Q. And you want them to tell the truth; is that right?

20 A. Correct.

21 Q. Is that important?

22 A. That is important.

23 Q. And why is that?

24 A. Because you would want the death benefit proceeds to go
25 to someone that, again, could suffer a financial loss in

1 the event of the death of a person rather than someone to
2 benefit from the death of a person.

3 MS. RATTAN: And then let's continue on
4 Government's Exhibit 118A. If we can look at page 4 and
5 the premium frequency at the bottom of the page.

6 BY MS. RATTAN:

7 Q. So can you explain to us what this is?

8 A. It's how often the client is selecting to pay. So
9 it -- notice -- you would say annual, semiannual. Then it
10 says quarterly, so direct billing, modal premium \$7,000;
11 and there was nothing taken with the application.

12 Q. Nothing is taken at the time that the application is
13 being made.

14 "Direct billing," what does that mean?

15 A. It's a direct bill to the client.

16 Q. And then what is the amount that's going to be paid?

17 A. \$7,000.

18 Q. And how often is that supposed to be paid?

19 A. According to the app, quarterly.

20 Q. So \$7,000 how often?

21 A. There are four quarters in a year.

22 Q. Okay. So it will be, 4 times 7, \$28,000 a year?

23 A. Yes.

24 Q. For this \$400,000 policy?

25 A. Correct.

1 MS. RATTAN: So then if we can look at 118A,
2 page 7.

3 BY MS. RATTAN:

4 Q. There are some health details; and it is filled in here
5 (as read): "The client smokes marijuana on occasion,
6 approximately once a week."

7 Is this standard that you-all ask questions like
8 this.

9 A. Yes.

10 MS. RATTAN: And then 118A, page 9.

11 BY MS. RATTAN:

12 Q. Again talking about health issues, visiting the doctor.
13 And it says, "Over 10 years ago. Never sick, client
14 states."

15 So why is Midland life asking questions like this?

16 A. Because we have to determine the insurability and the
17 health of the client prior to issuing a policy.

18 Q. Okay.

19 MS. RATTAN: And, finally, let's look at the last
20 two pages, Government's Exhibit 118A, page 10.

21 BY MS. RATTAN:

22 Q. And this is the signature page. It says "Paul
23 Villarreal," and then it's got the date -- like I said,
24 we're backing up in time. So it's 2-26 of '18.

25 So what's happening here?

1 A. This is the signature page on the final page of the
2 application and it appears that the proposed insured, Paul
3 Villarreal, signed it and he dated it 2-26-2018.

4 Q. And then for spouse, it says "not applicable"; is that
5 right?

6 A. Correct.

7 MS. RATTAN: Then if we can look at the final page
8 of Government's Exhibit 118A.

9 BY MS. RATTAN:

10 Q. What is this?

11 A. This is the soliciting agent signature of the policy.
12 It states "Keith Ashley."

13 Q. Okay. And so when you say "soliciting agent," what
14 does that mean?

15 A. The individual that solicited the application.

16 Q. And that would be one of you-all's agents, Keith
17 Ashley?

18 A. Correct.

19 Q. So have you researched and reviewed what happened with
20 this policy?

21 A. Yes.

22 Q. What happened with this submitted policy?

23 A. We received the blood, and we weren't able to offer
24 coverage on Paul Villarreal because of his lab results.

25 Q. So you requested, as you do in all of these cases, is

1 that right, that blood be submitted?

2 A. Correct.

3 Q. Let me direct your attention to 118A, page 6.

4 And this says -- this is again in the original
5 application. It says, "Special Requests or Details." And
6 the agent indicates "I will order exam."

7 What does that mean?

8 A. It means that the agent has a vendor and they'll order
9 the exam from that vendor.

10 Q. And what would "exam" be referring to?

11 A. A Part 2, so the fluids of the application.

12 Q. Okay. So these are the fluids that you're talking
13 about that were submitted, and Midland life had them
14 evaluated?

15 A. Correct.

16 Q. And Midland life's conclusion was what?

17 A. We declined the policy based off of the lab results
18 received.

19 Q. Okay. Now let me direct your -- oh, go ahead and tell
20 us what the declination was. What were the lab result
21 problems?

22 A. The lab results indicated a high A1C which is
23 indicative of potential diabetes, and it was 12.4.

24 Q. And so that's not something that Midland life -- or a
25 risk that Midland life was going to take?

1 A. Correct. It's very uncontrolled diabetes.

2 Q. Okay. And then let me direct your attention to
3 Government's Exhibit 118C.

4 MS. RATTAN: I believe that's been admitted as
5 well, your Honor.

6 THE COURT: Yes, it is.

7 BY MS. RATTAN:

8 Q. This is an email.

9 MS. RATTAN: If I can publish that.

10 BY MS. RATTAN:

11 Q. Do you recognize the name Cindy Nordquist?

12 A. I do.

13 Q. And who is that?

14 A. She is a case manager for Midland National Life.

15 Q. And this email was sent on February 27th of 2018, and
16 this is from Keith Ashley at -- keith@northtexasmoney.com
17 February 27th of 2018; and it's sent, it appears, to Cindy
18 there at Midland life.

19 And it says, "This client will be paying 7K
20 annually not quarterly. Sorry for the confusion"; and then
21 it's signed by Keith Ashley.

22 So what's going on here?

23 A. So as we talked about on the application, it indicated
24 7,000 quarterly. This is an email indicating that he
25 selected quarterly in error and he wants it annually.

1 Q. Okay. So it's not going to be \$28,000 a month (*sic*),
2 if it had been approved. Rather, it's going to be --
3 they're asking for \$7,000 a year?

4 A. Correct.

5 Q. Okay. And then, of course, Midland life responds to
6 Cindy and says, "Thank you for the email. I have updated
7 the premium to 1,750 quarterly. Thank you for your
8 business."

9 But we know ultimately that based on the blood
10 results, that Midland life declined to cover Paul
11 Villarreal; is that correct?

12 A. That is correct.

13 Q. And when you testified before -- but I just want to
14 make sure -- tell us where your office is.

15 A. Sioux Falls.

16 Q. Okay. And that's in Sioux Falls, South Dakota?

17 A. Yes, ma'am.

18 Q. And, of course, Cindy Nordquist is there well; is that
19 right?

20 A. Yes, ma'am.

21 MS. RATTAN: I'll pass the witness, your Honor.

22 THE COURT: Cross-examination?

23 CROSS-EXAMINATION OF COURTNEY JACOBSON

24 BY MR. WHALEN:

25 Q. Ms. Jacobson, how are you?

1 A. I'm good. How are you?

2 Q. I'm doing well.

3 Okay. Talk to me about this established insurable
4 interest again because I didn't really understand it.

5 A. So at the time of application for a life insurance
6 policy, insurable interest must be present at the time of
7 receiving the application.

8 And we, as underwriters, determine if insurable
9 interest is present based off of if the beneficiary is
10 either dependent of the insured or perhaps would suffer a
11 financial loss in the event of the death of the insured.

12 Q. Okay. So -- I'm just trying to think of a hypo to try
13 to -- so I can understand it in my head.

14 So if I'm a single person -- if I'm single and I
15 want to get life insurance to -- for the benefit of a
16 friend of mine, is that -- is that okay to do that?

17 A. We -- in underwriting we would ask additional questions
18 to be able to justify why a friend would be named as a
19 beneficiary.

20 Q. Okay. So if I'm a single person and don't have any
21 children or I have grown children and that's it, am I able
22 to get life insurance even if I'm the healthiest person in
23 the world?

24 A. Yes, potentially.

25 Q. Okay.

1 A. Yes.

2 Q. So you're going to look into that a little bit further?

3 A. Yes.

4 Q. Okay. Now, if we saw the application --

5 MR. WHALEN: And if we go to 118A, go to page 4.

6 BY MR. WHALEN:

7 Q. Well, let me ask you another question before we get
8 there.

9 Okay. You said you want to make sure somebody
10 doesn't have a financial interest because you don't want
11 them to benefit from their death, correct?

12 A. Correct.

13 Q. Okay. So -- and I don't mean this to be funny or
14 anything like that, but it's -- I just want to understand
15 how you underwrite it as.

16 You know, I could be married and my spouse could
17 despise me and would benefit from my death, correct? So
18 even though they are an insurable interest, they could
19 still benefit from my death and have an interest, right,
20 that could be adverse to me? Is that --

21 A. I mean, at the end of the day, the purpose of -- if you
22 look at the basic purpose of life insurance, which is what
23 this case is specifically about.

24 Q. Okay. Now, once I -- let me ask you this question:

25 Once I get the life insurance policy, am I free to change

1 the beneficiaries as I see fit?

2 A. After the contract is in force?

3 Q. Yes.

4 A. Yes.

5 Q. Okay. So as part of the initial application, you look
6 at the insurable interest in order to decide whether to
7 write the policy; but once I have the policy, as the owner
8 I can change the beneficiary as I see fit, correct?

9 A. You -- the owner of the application has the ability to
10 change --

11 Q. Okay.

12 A. -- the beneficiary.

13 Q. And does that require any additional underwriting?

14 A. Not from an underwriting lens, no.

15 Q. Okay. And also a part of underwriting is -- you talked
16 about this medical exam. You do the initial medical exam
17 for insurability, correct?

18 A. Correct.

19 Q. And is the medical exam kind of -- I don't know how to
20 describe it but, I mean, if you don't pass the medical
21 exam, you're not getting insurance. That's the threshold
22 question, correct?

23 A. It's not necessarily a pass/fail.

24 Q. Okay.

25 A. It depends on the impairment and the details that the

1 applicant provides on that --

2 Q. Okay.

3 A. -- part.

4 Q. But nobody's escaping the blood draw on an initial
5 application of a life insurance application, correct?

6 A. We do have an option to go nonfluid --

7 Q. Okay.

8 A. -- occasionally.

9 Q. And what -- and if you do that, your premium is pretty
10 significant, is it not?

11 A. Not necessarily, no.

12 Q. Okay. And what would be a situation where you would go
13 nonfluid?

14 A. They are healthy applicants in which we use third-party
15 data to assess the mortality versus medical data to assess
16 mortality.

17 Q. Okay. And what's third-party data?

18 A. Third-party data would be like a motor vehicle report,
19 a prescription report, things of that nature.

20 Q. Okay. So you'd look at whether they've been prescribed
21 any medications; and that would be a workaround of the
22 blood test, correct?

23 A. Correct.

24 Q. Okay.

25 A. Assuming --

1 Q. Okay. Now, once I get life insurance and say I've
2 taken a blood test and you've ruled me insured and as I
3 change the beneficiary, that doesn't require another blood
4 test, correct?

5 A. Correct.

6 Q. And you don't -- Midland National does not require
7 people to do annual physicals or annual blood work to
8 maintain insurability, correct?

9 A. Correct.

10 Q. Okay.

11 MR. WHALEN: All right. So let's go to 118A,
12 page 4.

13 BY MR. WHALEN:

14 Q. Okay. So you looked -- there's a section called
15 lifestyle information. Do you see that there?

16 A. I do.

17 Q. Talks about cigarettes, nicotine patches, gum; and it
18 indicates -- "cigarettes" is checked and (as read):
19 "Cigarettes half a pack a day."

20 You see that there, correct?

21 A. I do.

22 Q. Okay. And product use within the "last 12 months" was
23 checked, correct?

24 A. Yes.

25 Q. And this is important in your underwriting decision,

1 correct?

2 A. Correct.

3 Q. Okay. In the blood test is there a way to check for
4 nicotine?

5 A. It is in a urine evaluation.

6 Q. Okay. So when you did the urine screen of
7 Mr. Villarreal, because you did do one, did it come back
8 positive for -- that he has nicotine in his system?

9 A. I don't recall.

10 Q. Okay. All right.

11 MR. WHALEN: If we go to page 6, please.

12 Wait. Let me check. Is that 6? Let's try 5.

13 All right. I think I was right the first -- go to
14 7 maybe.

15 Okay. There we are.

16 BY MR. WHALEN:

17 Q. If we go to "underwriting questions," okay, is this 31
18 and Section 32 entitled "Underwriting Questions," are all
19 the questions underwriting questions or just 31 and 32?

20 A. Just 31 and 32.

21 Q. Okay. So it says, in A, "In the past 10 years, has the
22 Proposed Insured:

23 "Used barbiturates, hallucinatory drugs,
24 narcotics, crack, ecstasy, opium derivatives, marijuana,
25 LSD, PCP," et cetera, et cetera; and it's checked "Yes,"

1 correct?

2 A. Uh-huh.

3 Q. And he indicated that he smoked marijuana on a regular
4 basis, correct?

5 A. Yes.

6 Q. Okay. Did that bear itself out in the lab results?

7 A. We don't test for marijuana in the labs.

8 Q. Okay. So is it common knowledge that Midland
9 National -- or would an agent know that he doesn't test
10 for -- you-all don't test for marijuana?

11 A. I don't believe so.

12 Q. Okay.

13 And so -- but, nonetheless, he checked the box
14 knowing -- not even knowing that you-all don't check for
15 marijuana, correct?

16 A. Correct.

17 Q. Okay. So you would agree with me that this would be a
18 true -- is a true statement?

19 A. Based off of the application, yes.

20 Q. Okay. And --

21 MR. WHALEN: You can take that down.

22 BY MR. WHALEN:

23 Q. And so if I'm an agent selling life insurance, I know
24 Midland National is going to require an exam for blood,
25 correct?

1 A. Yeah, blood, urine, and --

2 Q. Okay.

3 A. -- medical questions.

4 Q. So when you get the application in, you're not making
5 any decisions until you get that blood work; is that fair?

6 A. Correct.

7 Q. Okay. And so until you get that blood work and
8 evaluate it, there are no decisions whether to insure or
9 not insure a person, correct?

10 A. Not necessarily. I would say it depends on how they
11 answer some of the questions.

12 Q. Okay. So could you answer -- if you answer the
13 questions in a certain way, can you deny them coverage
14 writing -- even before you get to the blood test?

15 A. Potentially.

16 Q. Okay. So if I say -- I put in my drug questionnaire I
17 use crack or heroin on a daily basis and then skydive,
18 that's a non -- would you agree? Is that a nonstarter
19 before you even get to the blood test?

20 A. Crack and heroin yes. Skydiving, there is an
21 opportunity.

22 Q. Okay. So -- but fair to say that until you get that
23 blood test result, Midland National is not writing a
24 policy?

25 A. Correct.

1 Q. Okay. In this case you got the blood test results.

2 You looked at the blood test results. And based on that,
3 you denied him coverage, correct?

4 A. Correct.

5 Q. Okay. If the blood test results had come back, would
6 you then look at the insurability interest, after that?

7 A. I would say we would look at that from the beginning.

8 Q. Okay. But if he doesn't come back -- if the blood
9 tests don't work, it doesn't matter at that point, correct?

10 A. We would still ask questions.

11 Q. Okay. But if the blood -- if the blood test comes back
12 and he doesn't qualify, are you going to ask any additional
13 questions; or is it just a declination letter at that
14 point?

15 A. It's a declination letter.

16 Q. All right.

17 MR. WHALEN: I'll pass the witness.

18 THE COURT: Additional questions?

19 MS. RATTAN: Just briefly. Thank you, your Honor.

20 REDIRECT EXAMINATION OF COURTNEY JACOBSON

21 BY MS. RATTAN:

22 Q. Ms. Jacobson, is it an important and material issue to
23 Midland life whether there, in fact, is an insurable
24 interest?

25 A. Yes.

1 Q. You-all care?

2 A. Yes.

3 Q. It matters?

4 A. Definitely.

5 Q. So if somebody misrepresented their insurable interest,
6 would that be an important and material issue to Midland
7 life?

8 A. Yes.

9 MS. RATTAN: Pass the witness.

10 THE COURT: Anything else?

11 MR. WHALEN: No, your Honor.

12 THE COURT: Can this witness be fully excused?

13 MS. RATTAN: Yes, please.

14 MR. WHALEN: Yes, your Honor.

15 THE COURT: Ma'am, you are free to leave now.

16 Thank you.

17 THE WITNESS: Thank you.

18 THE COURT: Okay. What's next?

19 MS. RATTAN: The United States calls Melinda
20 Montelongo Moncada.

21 THE COURT: Ma'am, if you'll raise your right hand
22 to be sworn in.

23 (The oath is administered to the witness.)

24 *

25 *

1 DIRECT EXAMINATION OF MELINDA MONTELONGO MONCADA

2 CALLED ON BEHALF OF THE GOVERNMENT

3 BY MS. RATTAN:

4 Q. Would you please state your name.

5 A. Melinda Moncada.

6 Q. And how do you spell your name?

7 A. M-E-L-I-N-D-A. Last name is M-O-N-C-A-D-A.

8 Q. And, Ms. Moncada -- am I pronouncing it correctly?

9 A. Yes.

10 Q. Okay. Ms. Moncada, did you know Paul Villarreal?

11 A. Yes.

12 Q. And was he your stepfather?

13 A. Yeah. That's my stepdad.

14 Q. Okay. And why do you describe him as your stepdad?

15 Explain your relationship to him.

16 A. He was living with my mom for over 30 years, and he
17 helped raise my kids.

18 Q. Okay. How many children do you have?

19 A. I have four girls.

20 Q. And your daughters, did they consider him -- or do they
21 consider him their grandfather?

22 A. That's their grandpa.

23 Q. And how many years did you know Paul Villarreal?

24 A. Close to 30 years.

25 Q. Can you describe, in around 2018, where Paul Villarreal

1 went to work?

2 A. At the Allen Nine Band Brewery.

3 Q. The Nine Band Brewery?

4 A. Yeah.

5 Q. Okay. So in around 2018 he went to work at the Nine
6 Band Brewery in Allen, Texas?

7 A. Correct.

8 Q. And what was your understanding of what his job was
9 there?

10 A. He made beer, packaged it, and sometimes delivered it.

11 Q. Now, before Mr. Villarreal, your stepdad, went to work
12 at Nine Band Brewery, can you give the jury an idea of what
13 his employment was? What did he do?

14 A. Basically scrapped, pick up scrap and recycle cans,
15 pick up cans.

16 Q. So he'd pick up cans and recycle them and try to make
17 money?

18 A. Right.

19 Q. So in 2018 he goes to work for Nine Band Brewery. Did
20 you know who his supervisor or boss was at Nine Band
21 Brewery?

22 A. Yes. Mr. Keith Ashley.

23 Q. And you said that he helped brew and deliver the beer
24 there at Nine Band Brewery?

25 A. Correct.

1 Q. Did you help Mr. Villarreal with his medical issues and
2 personal business?

3 A. Yeah. I would often make appointments for him, make
4 sure he was taking his -- the correct medicine.

5 Q. Okay. And just generally try to help him out?

6 A. Right.

7 Q. And did you know whether Mr. Villarreal was getting
8 paid -- or how he was getting paid by Nine Band Brewery,
9 Keith Ashley?

10 A. Yeah. He had a card that he would go -- Mr. Ashley
11 would give him on Fridays and he'd go withdraw from the
12 bank and then he'd give the card back.

13 Q. And would you see that? Did you know that?

14 A. Yes.

15 Q. And when you say "a card," will you describe for the
16 jury what you mean by "a card"?

17 A. It's like a debit card, but it's from the unemployment.

18 Q. What do you mean "unemployment"?

19 A. Like the unemployment workforce center. When you
20 collect unemployment when you're not working, they pay you
21 on a card. Yeah.

22 Q. And so Mr. Villarreal would get that unemployment card
23 from Keith Ashley, and then he would get paid for working
24 at the brewery on the unemployment card?

25 A. Correct.

1 Q. And you, in fact, saw that card?

2 A. Yes.

3 Q. Let me ask you. Was there ever a time when
4 Mr. Villarreal was expecting to receive a letter from -- or
5 for Mr. Ashley?

6 A. Yes, there was.

7 Q. And will you describe that for the jury?

8 A. It was a letter that was coming to his home, and he was
9 to not open and just give directly to --

10 MR. SANDEL: Objection, your Honor. It's based on
11 hearsay.

12 THE COURT: Ms. Rattan?

13 MS. RATTAN: If the witness knows, I think she can
14 testify to it.

15 THE COURT: Well, I'll sustain the objection
16 unless you know of an exception.

17 MS. RATTAN: Okay.

18 BY MS. RATTAN:

19 Q. Let me direct your attention --

20 MS. RATTAN: If we can publish Government's 109,
21 page 11.

22 BY MS. RATTAN:

23 Q. It will come up.

24 Do you see this letter?

25 A. Yes.

1 Q. And do you recognize that as being Paul Villarreal, who
2 you -- who is your stepdad?

3 A. Correct.

4 Q. I mean, is that his name there?

5 A. Yes, and address.

6 Q. And where did he and your mother live?

7 A. In Farmersville at that address.

8 Q. At that address?

9 A. At that address.

10 Q. That's their address?

11 A. Yes.

12 Q. And then the return address on that --

13 MS. RATTAN: If we can focus on the return
14 address.

15 BY MS. RATTAN:

16 Q. -- was for the Southwestern Institute of Forensic
17 Sciences at Dallas on Stemmons Freeway in Dallas, Texas; is
18 that right?

19 A. Correct.

20 Q. And you knew that Mr. Villarreal had was waiting on a
21 letter and had a plan on how he was going to handle that
22 letter; is that right?

23 A. Yes.

24 Q. What was that understanding?

25 A. That he was to give it straight to --

1 MR. SANDEL: Objection, your Honor. That's still
2 hearsay.

3 THE COURT: Sustained.

4 MS. RATTAN: May I be heard on that?

5 THE COURT: Yes.

6 MS. RATTAN: It's not offered for the truth of the
7 matter asserted. It's just offered to explain what this
8 witness knows about this letter and this envelope. It's
9 not offered to prove that that, in fact, was what
10 Mr. Villarreal was going to do with the letter, just that
11 that's what this witness believed about a letter that was
12 coming to her stepdad, Paul Villarreal.

13 MR. SANDEL: Your Honor, I still think it's
14 hearsay; and then I would also object to, if it's being for
15 her mental state about a letter, the relevance to that.

16 THE COURT: Well, I'll sustain the objection.

17 BY MS. RATTAN:

18 Q. Did you ever see a letter that -- but did you know he
19 was expecting one?

20 A. I knew that he was expecting one.

21 Q. Let me ask you. You said you were involved with
22 Mr. Villarreal's health issues. Did he have health issues?

23 A. Yes.

24 Q. What were they?

25 A. He was diabetic. He had heart problems, pretty much --

1 and high blood pressure.

2 Q. You said you helped him with medical issues. Did you
3 become aware that, in fact, Keith Ashley was going to give
4 him a physical at some point?

5 A. Yes, I did.

6 Q. And you weren't there when it happened, but you were
7 aware of it?

8 A. Correct.

9 Q. And that was talk within the family?

10 A. Correct.

11 Q. And what about life insurance? Was there ever any
12 discussion about Keith Ashley taking out life insurance on
13 Paul Villarreal?

14 A. Yes.

15 Q. And what do you know about that?

16 A. Just that he was --

17 MR. SANDEL: Objection, your Honor. It would be
18 based on hearsay.

19 THE COURT: Well, I'm not sure where it's coming
20 from so --

21 What's the source of the information? If you want
22 to set that.

23 MS. RATTAN: Yes, your Honor.

24 BY MS. RATTAN:

25 Q. How do you know about Mr. Villarreal getting life

1 insurance?

2 A. He came home one day and he said that --

3 MR. SANDEL: Objection, your Honor, then that's
4 hearsay.

5 THE COURT: Sustained.

6 BY MS. RATTAN:

7 Q. Well, let me direct your attention to Government's
8 Exhibit 118A.

9 MS. RATTAN: And if we can look at page 1.

10 BY MS. RATTAN:

11 Q. You may not have seen this before. But do you
12 recognize this name, the last name and the first name, Paul
13 Villarreal?

14 A. Yes. That's my stepdad.

15 Q. And then, let's see, do you recognize this address
16 right here?

17 A. Yes. That's their home.

18 Q. And that's the same address that was on the envelope
19 that we saw a minute ago?

20 A. Correct.

21 Q. And then it says that Paul Villarreal's job is at Nine
22 Band Brewing Company as a brewery assistant.

23 Is that your understanding?

24 A. Yes.

25 Q. And then he says that his annual income was \$50,000.

1 Based on what you knew of Mr. Villarreal and your
2 mother's finances, would his annual income have been
3 \$50,000?

4 MR. SANDEL: Objection, your Honor, based on
5 hearsay.

6 MS. RATTAN: She can answer if she knows.

7 THE COURT: Overruled.

8 BY MS. RATTAN:

9 Q. Do you know what Mr. --

10 THE COURT: You can answer.

11 BY MS. RATTAN:

12 Q. Do you know what Mr. Villarreal's income was?

13 A. Well, I know he would bring home -- it was like 500 a
14 week. I'm not too good at math, so whatever that would
15 equal up to a year.

16 Q. Okay. So \$500 a week and then whatever that would turn
17 out to be in one year?

18 A. Correct.

19 Q. And that's what you knew about what he made?

20 A. Right.

21 Q. So at some point did your family and Mr. Villarreal
22 find out that somebody by the name of James Seegan had
23 died?

24 A. Yes.

25 Q. And did you know what Mr. Villarreal's reaction was to

1 the fact that Mr. Seegan had died?

2 A. He became kind of afraid and kind of just watching his
3 back a lot.

4 Q. Let me direct your attention to Government's
5 Exhibit 118A.

6 MS. RATTAN: If we can look at page 3, at the
7 bottom of the page.

8 BY MS. RATTAN:

9 Q. This says "Beneficiary" and it says "Primary" and it
10 has the name "Keith Ashley"; is that right?

11 A. Yes, ma'am.

12 Q. And then it says (as read): "Proposed relationship to
13 the insured," and it says "stepbrother."

14 So you knew Mr. Villarreal for about 30 years; is
15 that right?

16 A. Yes, ma'am.

17 Q. Did you know whether he had any siblings?

18 A. Yes, ma'am.

19 Q. What siblings did he have?

20 A. He had three brothers.

21 Q. And you knew that Mr. Villarreal was employed or
22 working for Keith Ashley at Nine Band Brewery?

23 A. Correct.

24 Q. Is it true that Keith Ashley was Mr. Villarreal's
25 stepbrother?

1 A. He is not his stepbrother.

2 Q. That's a lie?

3 A. Yes, ma'am.

4 MS. RATTAN: I'll pass the witness.

5 THE COURT: Cross-examination?

6 CROSS-EXAMINATION OF MELINDA MONTELONGO MONCADA

7 BY MR. SANDEL:

8 Q. Ms. Moncada, how are you?

9 A. I'm fine. Thank you.

10 Q. Talking about Paul, you said he was working at the
11 brewery in 2018, correct?

12 A. Correct.

13 Q. Is that when he started at the brewery, or was he just
14 working there that year?

15 A. He might have started late 2017, but he worked up until
16 they closed it down.

17 Q. Okay. And had Paul known Mr. Ashley before working at
18 the brewery, or is that where they met?

19 A. That's where they met.

20 Q. Now, you said that Mr. Villarreal was a diabetic,
21 correct?

22 A. Correct.

23 Q. How long had the family known about his diabetes?

24 A. At least ten years maybe.

25 Q. At least ten years?

1 A. Right.

2 Q. So in this 2018 it wasn't a secret. He knew he was
3 diabetic, correct?

4 A. He didn't know *per se*. He had never gone to a doctor
5 to get that kind of help.

6 Q. Okay.

7 A. But he knew. He more or less knew he had it.

8 Q. So let's talk about that. If he had never gone to the
9 doctor, how was it that he and the family knew about his
10 diabetes?

11 A. Because he -- one day he woke up in the middle of the
12 night. I checked his blood sugar and it was 600 and I took
13 him to the hospital.

14 Q. Okay.

15 A. That's how he realized, hey, I've got it.

16 Q. Do you recall about when that was?

17 A. That was about probably 2016-'17.

18 Q. Okay. So right around that time that he may have
19 started working at the brewery?

20 A. Right.

21 Q. Okay. And was there any particular reason that he
22 didn't go to a doctor about that stuff?

23 A. Because he didn't have insurance.

24 Q. Didn't have insurance?

25 A. Didn't have a job.

1 Q. Okay. So he was concerned about the cost of going to a
2 doctor?

3 A. Correct.

4 Q. Now, as part of him working at the brewery, what was
5 his relationship like with Mr. Ashley in 2018 and 2019?

6 A. He always raved about him, about Mr. Ashley.

7 Q. Okay. So the two were relatively close? Would you say
8 that?

9 A. Yeah, at work.

10 Q. Okay. After Mr. Villarreal applied for this life
11 insurance policy, did he ever follow up and go to a doctor
12 regarding his diabetes or any other conditions?

13 A. I don't believe he applied for it --

14 Q. Uh-huh.

15 A. -- because, for one, that's not his handwriting.

16 Q. Okay.

17 A. Two, when he got admitted to the hospital, that's when
18 they began to do everything. That was, like -- we're 2022.
19 So 2021, like in June, somewhere around there.

20 Q. Okay.

21 A. Yeah, he was admitted into the hospital.

22 Q. And was that a result of the diabetes again or --

23 A. (Moving head up and down.)

24 Q. Okay.

25 A. Correct.

1 MR. SANDEL: Pass the witness, your Honor.

2 THE COURT: Anything additional?

3 MS. RATTAN: Yes. Thank you.

4 REDIRECT EXAMINATION OF MELINDA MONTELONGO MONCADA

5 BY MS. RATTAN:

6 Q. Now, along with working at the brewery, did
7 Mr. Villarreal also work or do yard work, help out at
8 Mr. Ashley's house?

9 A. Yeah, mostly at the mother-in-law's house.

10 Q. At Mr. Ashley's mother-in-law's house?

11 A. At his mother-in-law's house. He'd do yard work. He'd
12 do -- if he needed something getting fixed, like electrical
13 or plumbing, whatever. Paul was a handyman, you know. He
14 did everything.

15 Q. So it wasn't just work at the brewery. It was also
16 just errands and things that Keith Ashley needed done?

17 A. Right. When Mr. Ashley didn't have any beer to make,
18 he would send him to his mother-in-law's or to his house to
19 get some work done around there.

20 Q. And then this would all be based on the card that he
21 would use once a week?

22 A. Right.

23 Q. And that's how he --

24 A. Correct.

25 Q. -- would get paid?

1 A. Yeah.

2 Q. Okay. Now, of course, Mr. Villarreal is not here now;
3 is that right?

4 Can you explain what happened?

5 A. Correct. He passed away this year, May 11th, from a
6 massive heart failure.

7 MS. RATTAN: I'll pass the witness, your Honor.

8 THE COURT: Anything else?

9 MR. SANDEL: No, your Honor.

10 THE COURT: Can this witness be fully excused?

11 MS. RATTAN: Yes, please.

12 MR. SANDEL: Yes, your Honor.

13 THE COURT: Ma'am, you are free to leave. Thank
14 you.

15 I think at this time we'll take our afternoon
16 break. Again, ladies and gentlemen, please don't discuss
17 the case among yourself or anyone else. Don't do any
18 outside research. We'll take 15 minutes and come back and
19 continue. Thank you.

20 (The jury exits the courtroom, 3:03 p.m.)

21 THE COURT: Anything further from the government?

22 MS. RATTAN: No. But just in terms of where we
23 are this afternoon, let's see, we have three more witnesses
24 for this afternoon.

25 THE COURT: Is that going to take us to 5:00?

1 MS. RATTAN: I don't know that it will. And then
2 we were hoping to rest on Monday. We've got --

3 THE COURT: Well, I thought we were going to
4 finish today with the evidence.

5 MS. RATTAN: Well, I'm not sure we're going to be
6 able to.

7 THE COURT: Okay. So three witnesses. When is
8 that going to take us till?

9 MS. RATTAN: I'm going to say, let's see, probably
10 4:15.

11 THE COURT: Okay. And then how much do you have
12 left on Monday?

13 MS. RATTAN: I think we'll finish by midmorning,
14 maybe later.

15 THE COURT: Okay. And then is defense
16 anticipating putting anything on?

17 MR. WHALEN: No, your Honor.

18 THE COURT: Okay. Well, then, we'll probably go
19 to the jury right after lunch. That's probably the plan.
20 So we'll have the charge conference, you know, right after
21 we finish with evidence and plan for closing arguments
22 after lunch.

23 Why are you smiling?

24 MS. RATTAN: May I have a minute with counsel?

25 THE COURT: Right.

1 MR. WHALEN: We had another idea, Judge, we'd like
2 to share.

3 THE COURT: Well, I think that's been passed on to
4 my lawyer. But the problem with that is that -- I'm just
5 respectful of the jury's time; and so, you know, that's a
6 long time to basically be done before lunch on a Monday and
7 then tell them to come back the next day.

8 We'll get you a draft of the charge here to take
9 home to look over over the weekend but -- y'all can
10 converse and talk about it; but, I mean, I just --

11 Also, the only venue challenge is to 19 and 20,
12 correct?

13 MR. WHALEN: Let me think about it. I think there
14 may -- potentially could be more. Let me look at the
15 Indictment.

16 THE COURT: That's fine. The instruction we are
17 placing, it can be easily replicated in other counts.

18 MR. WHALEN: Okay.

19 THE COURT: I just -- that's the only two I
20 thought that you were challenging.

21 Okay. Anything else? Anything from defense?

22 MR. WHALEN: No, your Honor.

23 THE COURT: Okay. See you back in 15 minutes.

24 (Recess, 3:06 p.m. to 3:18 p.m.)

25 (Open court, defendant present, jury present.)

1 THE COURT: Please be seated.

2 Your next witness?

3 MS. RATTAN: Your Honor, the United States calls
4 Cindy Nordquist.

5 THE COURT: Ma'am, if you'll raise your right hand
6 and be sworn in.

7 (The oath is administered to the witness.)

8 THE COURT: Go ahead and proceed.

9 MS. RATTAN: Thank you, your Honor.

10 DIRECT EXAMINATION OF CINDY NORDQUIST

11 CALLED ON BEHALF OF THE GOVERNMENT

12 BY MS. RATTAN:

13 Q. Please state your name.

14 A. Cindy Nordquist.

15 Q. And can you speak as closely as possible into the
16 microphone.

17 A. Cindy Nordquist.

18 Q. And can you spell your last name.

19 A. N, as in "Nancy," O-R-D, as in "David," Q-U-I-S, as in
20 "Sam," T.

21 Q. And where do you work?

22 A. Midland National Life Insurance in Sioux --

23 Q. And -- oh, sorry. Go ahead.

24 A. -- in Sioux Falls, South Dakota.

25 Q. Okay. That's what I was going to ask you.

1 Where physically is your office?

2 A. Sioux Falls, South Dakota.

3 Q. Can you tell us what training you have there at Midland
4 Life? What is your training there?

5 A. I was trained as a case manager in the underwriting and
6 New Business Department. So it is like the processing of
7 the paperwork and the applications that come in from
8 potential applicants.

9 Q. And how long have you been working at Midland National
10 Life?

11 A. It will be 27 years.

12 Q. And when you say "New Business," what do you mean?

13 A. That would be the new applicants, the potential clients
14 that are applying for life insurance, they would come in
15 through our New Business Department and go through our
16 underwriting process.

17 Q. And you said also case manager. Is New Business, case
18 manager kind of part and parcel?

19 A. Yes. I mean, I work in the New Business Department as
20 a case manager; so I am assigned -- when the applications
21 come through, they are assigned to a case manager to follow
22 them through the process.

23 Q. So when an agent is presenting a new policy, you would
24 be someone who would be contacted?

25 A. They would submit the application, yes, and I would

1 be -- I would be their point of contact, yes.

2 Q. And so once they submit the application, then what
3 happens?

4 A. The application comes in to New Business. It's coded
5 into our system. It's assigned a policy number; and then
6 it comes in through, like, the underwriting process and
7 then either gets approved or we ask for more requirements,
8 that type. But I would be like their main point of contact
9 for questions.

10 Q. So kind of give us a timeline on when something comes
11 in as a new policy, how long can that take?

12 A. It all depends on what the requirements are. When the
13 application comes in, we usually try to get them coded
14 within 24 to 48 hours. The initial review is done by an
15 underwriter; and then it would come to me if I have to
16 order any requirements such as medical records, do
17 follow-ups on labs, motor vehicle report, any of those
18 types of things.

19 If we have to order medical records, it could
20 take, you know, several weeks to several months depending
21 on the -- how long it takes to get them from the facility.

22 Q. And how is the underwriter involved with you in new
23 cases and in New Business?

24 A. They would add additional requirements other than the
25 standard requirements required for the age and face amount

1 of the applicant.

2 Q. And is it a concern to a life insurance company to get
3 someone's blood to ensure that they are someone that they
4 want to insure?

5 Is blood a requirement?

6 A. The blood is a requirement depending on the age and the
7 face amount of the insured.

8 Q. And what do you mean by that?

9 A. There are certain requirements where it's -- it could
10 go through the WriteAway process depending on the age and
11 the face amount. And then there's risk classifier, which
12 I'm not exactly sure what all of the -- what all they look
13 at for that. But it's kind of a pass/fail so -- but, yeah,
14 most of our cases come through require a paramed exam,
15 blood and urine.

16 Q. Most cases are going to require that?

17 A. Yes.

18 Q. So if a case is moving quickly -- how soon from new
19 case status, the application coming in, to being insured
20 could you expect if it's moving quickly?

21 A. If it's moving quickly, if the agent has ordered the
22 paramed and labs, if they get an appointment, usually our
23 lab processing, which is clinical reference lab, we usually
24 get results within a week.

25 Q. And then if something is drawn out, you're going to

1 need medical records, there are concerns on the face of it,
2 how long could that take?

3 A. It could take months.

4 Q. And then the declination process, how does that happen,
5 if you the decline to accept somebody for life insurance?

6 A. The declination is actually done by the underwriter;
7 and that's based on any medical information that comes in,
8 which could be your urine results, your blood results,
9 medical records, criminal history, motor vehicle report.
10 There's quite a few dynamics that you could do a decline
11 for.

12 Q. And how long does it take to figure out whether you're
13 going to decline someone, generally?

14 A. I mean, it could be a couple days. I mean, if we get
15 the lab results back in or -- like just, say, a motor
16 vehicle report and they have some history that is
17 uninsurable, it could be a couple days. But we've -- it
18 could also be months, depending on if we're waiting for
19 medical records.

20 Q. And is an A1C -- what is that?

21 A. A1C is a blood test that is completed on all blood
22 specimens.

23 Q. And what is it in relation to?

24 A. I am not an underwriter or in the medical field. But
25 an A1C is a blood test that if it's high, it's usually

1 regarding diabetes.

2 Q. And, of course, Midland life is concerned about that?

3 A. Yes.

4 Q. And you could get declined based on a high A1C?

5 A. Yes.

6 Q. Well, let me direct your attention to February of 2018.

7 Of course, you've been working at Midland life for
8 many years. Were you working at Midland life in February
9 of 2018?

10 A. Yes.

11 Q. And what were your duties there during that time
12 period?

13 A. I was a case manager.

14 Q. So you would be dealing with new matters?

15 A. Correct.

16 Q. And did you take a call in February of 2019 (*sic*) that
17 was dealing, in fact, with a new matter?

18 A. Of what year?

19 Q. 2018.

20 A. Yes.

21 Q. I may have said a different year, but I meant
22 February 2018.

23 A. Yes.

24 Q. And before coming to court today, have you reviewed
25 that call?

1 A. Yes.

2 Q. And are you sure that the call is accurate as far as
3 the one that you accepted on behalf of Midland life and
4 there haven't been any changes or deletions?

5 A. Correct, yes.

6 Q. The call is accurate?

7 A. The call is accurate.

8 Q. And, in fact, does it come from someone by the name of
9 Keith Ashley?

10 A. Yes, it does.

11 Q. And was that an agent with Midland life?

12 A. Yes.

13 Q. Did you remember Keith Ashley?

14 A. I did remember the name, yes.

15 Q. Okay. So it was a name that was familiar to you before
16 you even reviewed the call?

17 A. Yes.

18 MS. RATTAN: Your Honor, I believe it's previously
19 been admitted. If we can publish Government's Exhibit 119
20 and 120 -- oh, A and B, rather.

21 THE COURT: Okay. 119A and B have been admitted,
22 yes.

23 MS. RATTAN: Yes.

24 THE COURT: Yes, you may.

25 (Audiovisual presentation to the jury.)

1 MR. FINE: Okay. May we publish the transcript,
2 your Honor?

3 THE COURT: Yes, you may.

4 BY MS. RATTAN:

5 Q. Okay. Let me direct your attention to the transcript
6 of the call that we just heard.

7 MS. RATTAN: And if we can look at the top of the
8 transcript.

9 BY MS. RATTAN:

10 Q. It came in on February 27th of 2018 --

11 A. Yes.

12 Q. -- is that right?

13 A. Yes.

14 Q. And then it says that Cindy Lnu -- and do you recognize
15 your voice?

16 A. Yes.

17 Q. And then Keith Todd Ashley is the agent. And you said
18 that you even have a memory of dealing with him as an
19 agent; is that right?

20 A. Yes.

21 Q. So just kind of give us an overview. What's going on
22 in this call?

23 A. On the application -- when I took the initial call, I
24 pulled up the application by the policy number. So I -- I
25 have a double screen; so I had our input system on my left

1 and I pulled up a copy of the application on the right.

2 So as he was indicating the premium and kind of
3 what the call was about, I did verify that on the
4 application it was written in the dollar amount premium of
5 7,000 but he had marked "quarterly" for the premium mode.

6 So during the conversation, he wanted the premium
7 mode to be quarterly, paying 7,000 annual. So that's why
8 we divided it by four and came up with the 1,750.

9 Q. Okay.

10 A. And so I made that change to the premium, put the case
11 notes in the file, and ended the call.

12 Q. And so not \$28,000 a year. He wanted it to be \$7,000 a
13 year; so it would be 7,000 divided by 4?

14 A. Correct, yes.

15 Q. And that's what y'all talked about?

16 A. Yes. And that's the change I made and then noted the
17 file and added the endorsement.

18 MS. RATTAN: So if we can look on 119B, page 1, at
19 the bottom of the page, lines 20 through 25.

20 BY MS. RATTAN:

21 Q. He says, "Hey, Cindy, Keith Ashley, how are you doing?"

22 And then he talks about emailing you earlier
23 today.

24 So he sent you an email?

25 A. I checked in the file, and I didn't see an email. But

1 in the part of the conversation where it talks about the
2 modified endowment, that's an automatic notation that the
3 underwriter -- or, I'm sorry, that the agents receive
4 because most policies you don't want them to be the
5 modified endowment.

6 So it made perfect sense when he's talking about
7 an email. It was probably the system-generated email that
8 went out saying, hey, woohoo, this is going to be a
9 modified endowment. And that's usually not what the
10 insureds want.

11 Q. Well, let me show you -- you know Courtney Jacobson; is
12 that right?

13 A. Yes.

14 Q. She's an underwriter?

15 A. Yes.

16 Q. And, of course, a record custodian with Midland life.

17 We checked your records for an email. And let me
18 direct your attention to Government's Exhibit 118C.

19 The call references an email and so we asked Cindy
20 about it -- I mean, rather, Courtney Jacobson. And so
21 here, on February 27th of 2018, if you start at the bottom,
22 it's from Keith Ashley, keith@northtexasmoney.com, on
23 February 27th of 2018. And then he says (as read):
24 "Cindy, this client will be paying 7K annually not
25 quarterly. Sorry for the confusion."

1 So is this consistent with the call and discussion
2 that you-all had on the call?

3 A. Yes. I apologize. That is an email that I would have
4 sent, yes.

5 Q. No, no. It's all right. We had reviewed it with
6 Courtney Jacobson.

7 A. With Courtney, okay.

8 Q. Yes.

9 But it's referenced in your call.

10 A. Okay, yes. That is -- that is the conversation.

11 Q. And then at the top, it's from you. And is that your
12 email address?

13 A. Yes, it is.

14 Q. Okay. And it's sent on February 27th, 2018.

15 And then you just affirm (as read): "Thanks for
16 the email. I have the update to the premium." And then,
17 just like you testified earlier, it's going to be 1,750
18 quarterly. "Thank you for your business." Is that right?

19 A. Yes.

20 Q. So just because you-all are having this discussion,
21 does that mean that the policy is in place or that it will
22 be in place?

23 A. No. That just -- that just means that instead of being
24 an annual premium billing notice, it will be a quarterly
25 premium billing notice.

1 Q. So you're just talking hypothetically what might happen
2 if the policy is approved?

3 A. Correct.

4 Q. So let me direct your attention to the policy. And
5 it's Government's Exhibit 118A.

6 MS. RATTAN: If we can publish it, page 1.

7 BY MS. RATTAN:

8 Q. And you're in New Business. So you're talking to him
9 about this new policy; is that right?

10 A. About this new application, yes.

11 Q. Rather, new application.

12 A. Yes.

13 Q. And in the transcript of the call, you refer to Paul,
14 that you're talking about someone by the name of Paul.

15 A. Yes.

16 Q. An application for Paul.

17 A. Yes.

18 Q. And so this is the application for Paul Villarreal, in
19 fact; is that right?

20 A. Yes.

21 Q. And then on the \$7,000 issue, the mistake that he's
22 talking about is 118A, page 4.

23 What's going on here?

24 A. Yes. And that's the billing mode premium section. And
25 it's marked "quarterly" at 7,000 when they truly wanted,

1 per the conversation, to be quarterly with 7,000 divided by
2 4.

3 Q. And so that's what the phone call was about?

4 A. Yes.

5 Q. Clearing that up?

6 A. Yes.

7 MS. RATTAN: And then if we can look at the
8 policy -- or the application, rather, which is 118A,
9 page 15.

10 BY MS. RATTAN:

11 Q. We've got a signature that purports to be that of Paul
12 Villarreal on 2-26 of 2018, and then you've got the agent's
13 signature here also on 2-26 of '18; is that right?

14 A. Yes.

15 Q. So then in the phone call, the phone call is
16 referencing this application, which is Government's 118A?

17 A. Yes.

18 Q. And then also in the phone call you-all reference the
19 email that we discussed earlier and that's Government's
20 Exhibit 118C.

21 A. Yes.

22 Q. And then the amount of the policy -- or the requested
23 policy is listed; and that's in Government's Exhibit 118A,
24 page 1. And that's for \$400,000; is that right?

25 A. Yes.

1 MS. RATTAN: Your Honor, may I approach the
2 witness?

3 THE COURT: Yes.

4 MS. RATTAN: Thank you.

5 BY MS. RATTAN:

6 Q. And let me show you this. Based on the email and the
7 phone call and the application that we reviewed, let me ask
8 you to look at this. It says (as read): "February 26
9 through 27 of 2018, Ashley" -- meaning Keith Ashley --
10 "creates emails and calls Midland life about a \$400,000
11 life policy for Paul Villarreal."

12 A. Yes.

13 Q. Now, on here, at the bottom, it says Ashley is listed
14 as beneficiary as the stepbrother. Did you -- let me show
15 you that. Did you already review that?

16 A. I did review it, yes. That is the application.

17 Q. And Ashley is listed on the application as a potential
18 beneficiary, and he claims that his insurable interest is
19 stepbrother; is that right?

20 A. Yes. His name is listed as the primary beneficiary.
21 Relationship, stepbrother.

22 MS. RATTAN: May I return, your Honor?

23 THE COURT: Yes.

24 MS. RATTAN: Thank you. I'll pass the witness.

25 THE COURT: Cross-examination?

1 CROSS-EXAMINATION OF CINDY NORDQUIST

2 BY MR. WHALEN:

3 Q. Ms. Nordquist, how are you?

4 A. I'm good. Thank you.

5 Q. All right. Okay. So I want to follow up on a couple
6 things with you. You've testified something that -- well,
7 let me ask it this way: Is there a scenario where I could
8 file an application for life insurance and, depending on
9 the amount of it, I can get approved without any medicals
10 or anything like that?

11 A. Yes.

12 Q. Okay. How much -- if you know, how much amount of life
13 insurance is that?

14 A. Unfortunately, I do not know that.

15 Q. Okay. Is that something an agent would know?

16 A. Yes.

17 Q. Okay.

18 A. It's published WriteAway guidelines.

19 Q. Okay. So if I'm an agent with Midland National and I
20 know the guidelines, I could know how to write a policy for
21 a person to bypass medical, correct -- or wouldn't require
22 medical, not bypass, wouldn't require it.

23 A. They would have to pass the risk classifier score,
24 which is --

25 Q. Okay.

1 A. -- a lot of different information they pull in from
2 outside sources.

3 Q. Okay. And when you talk about risk classification
4 score, what do you mean by that?

5 A. Unfortunately, I'm not an underwriter; so I don't have
6 that information. But it's a risk classifier score. It's
7 a pass/fail. If you pass, it's potential to not have to
8 have labs drawn or do the paramedic or medical records; and
9 then if you fail, then obviously they do the labs,
10 paramedic, medical records, whatever other information they
11 need.

12 Q. Okay. And it's a risk classifier. I kind of got a
13 hint you're going to look at have they had a bunch of car
14 wrecks. Is that something you're going to look at?

15 A. They do order motor vehicle reports, yes.

16 Q. Okay. If they have a criminal history, is that
17 something you-all look at?

18 A. They do have access to that, yes.

19 Q. Okay. If they have a poor credit score, is that
20 something they would look at?

21 A. That, I do not know. I'm sorry.

22 Q. Okay. So just to be clear, there is a scenario that a
23 person could apply for life insurance and, if the amounts
24 are right and they have a low score, wouldn't require
25 medicals, correct?

1 A. Actually, the risk classifier score has to be high.

2 But, yes, in your scenario it would be possible,
3 yes.

4 Q. Okay. And so in this application it said an exam would
5 be ordered, correct? A medical exam would be ordered, on
6 the application, correct?

7 A. That, I don't know if they were automatic requirements
8 or not.

9 Q. Okay. Let me --

10 MR. WHALEN: If we could go to 118A, page 6,
11 please.

12 BY MR. WHALEN:

13 Q. Do you see on the application here it says (as read):
14 "Special Requests. I will order the exam"?

15 You see that?

16 A. Yes.

17 Q. Okay. So going into this, an exam was going to be
18 ordered. Is that fair to say?

19 A. Yes.

20 Q. Okay. Now, just so I understand the process, so the
21 new application comes in and if -- it doesn't bind Midland
22 National yet. There's -- you haven't agreed to contract
23 with the owner for life insurance yet, correct?

24 A. Correct.

25 Q. You review the application; but then you order the

1 medicals, correct?

2 A. Yes.

3 Q. Okay. And then once the -- and the medical -- the
4 blood work and everything has to come back from an approved
5 vendor, correct?

6 A. Yes.

7 Q. Okay.

8 A. An approved paramedic service approved through Midland
9 National.

10 Q. Okay. And in order for that process to work, they
11 would get their ID to verify that it's the right
12 individual, correct?

13 A. Who is "they"?

14 Q. The paramedic, the vendor, because you want to make
15 sure they're drawing blood from the person --

16 A. Yes.

17 Q. -- that's applying, correct?

18 A. Yes.

19 Q. Okay. And there's measures in place to make sure that
20 to be accurate, correct, if you know?

21 A. I don't know, but I -- yes, I would sure hope so.

22 Q. Okay. And so it comes into the system. Then you wait
23 for the medicals; and it could be a quick declination based
24 on the meds, correct?

25 A. Correct, based on lab results or information provided

1 on the paramedic exam.

2 Q. Okay. And untreated diabetes is -- is it fair to say
3 that's a high risk factor that's going to lead to a
4 declination?

5 A. It is very possible. I am not an underwriter, so I'm
6 not involved in the medical aspect.

7 Q. Okay. So if a medical exam is ordered, you're not
8 going to issue a policy or look at it until that comes
9 back, correct?

10 A. Correct. The underwriter would look at it.

11 Q. Okay.

12 A. My job would be to follow up on it if it doesn't come
13 in.

14 Q. Okay. And then if you were to need medical records and
15 things, that's additional information you would gather, if
16 needed, if the underwriter directed it, correct?

17 A. Correct. They would order it and -- they would put out
18 the request and I would order, yes.

19 Q. Okay. So if the policy is declined, correct, and the
20 policy is not issued, does Midland National -- does
21 Mr. Villarreal or anyone else have to pay Midland National
22 any money?

23 A. No.

24 Q. Okay. Does the agent get any commission for a declined
25 policy?

1 A. Not that I'm aware of.

2 Q. Okay. And let me ask you this: Once the policy is in
3 force, if the insured fails to pay the premiums and the
4 premium lapses, then there is no more life insurance,
5 correct?

6 A. Correct.

7 If the policy is placed in force and the premiums
8 are not paid, then it goes into a grace period for a
9 certain amount of time; and then I believe letters are
10 probably sent out as a little reminder saying we haven't
11 received your premium and then a lapse notice.

12 Q. Okay. So in order for a policy to ever pay out,
13 premiums have to be paid in full at the time of someone's
14 death, correct?

15 A. It would have to be current, yes.

16 Q. Okay.

17 MR. WHALEN: I'll pass the witness.

18 THE COURT: Anything additional?

19 MS. RATTAN: No, your Honor.

20 THE COURT: Can this witness be fully excused?

21 MR. WHALEN: Yes, your Honor.

22 MS. RATTAN: Yes, please.

23 THE COURT: Ma'am, you are free to leave. Thank
24 you.

25 THE WITNESS: Thank you.

1 THE COURT: What's next?

2 MS. RATTAN: United States calls Arthur Hilson.

3 THE COURT: Sir, if you'll raise your right hand
4 to be sworn in.

5 (The oath is administered to the witness.)

6 THE COURT: Go ahead and proceed.

7 MS. RATTAN: May I approach the witness, your
8 Honor?

9 THE COURT: Yes.

10 MS. RATTAN: May I return?

11 THE COURT: Yes.

12 MS. RATTAN: Thank you.

13 MR. SANDEL: And, your Honor, may we approach
14 briefly?

15 THE COURT: Yes.

16 (Sidebar conference, off the record.)

17 THE COURT: Ms. Rattan, go ahead and proceed.

18 MS. RATTAN: Thank you, your Honor.

19 DIRECT EXAMINATION OF ARTHUR HILSON

20 CALLED ON BEHALF OF THE GOVERNMENT

21 BY MS. RATTAN:

22 Q. Would you please state your name.

23 A. Arthur Hilson.

24 Q. Okay. And, Mr. Hilson, I hope I didn't turn your
25 microphone off. I might have.

1 But it's important, if you would -- the acoustics
2 in here are difficult -- to --

3 A. Okay.

4 Q. -- speak as closely as you can into the microphone.

5 A. Sure. Can you hear me?

6 Q. Yes, sir.

7 A. Arthur Hilson.

8 Q. And will you spell your name, please.

9 A. A-R-T-H-U-R H-I-L-S-O-N.

10 Q. And, Mr. Hilson, where do you work?

11 A. Texas Capital Bank.

12 Q. And what do you do at Texas Capital Bank? What are
13 your various duties there?

14 A. So I'm a technology engineering manager there,
15 specifically over the treasury applications.

16 Q. And what's your educational background that qualifies
17 you for your position?

18 A. I have a computer engineering degree from Ohio State.

19 Q. And how long have you worked at Texas Capital Bank?

20 A. I started there in February of this year.

21 Q. Let me ask you about one of your bank customers, a bank
22 account in the name of James Seegan.

23 Have you reviewed the bank records as they relate
24 to the bank account for James Seegan?

25 A. Yes.

1 Q. And, specifically, did you review the bank records for
2 your customer, James Seegan, on February 21st of 2020?

3 A. Yes.

4 Q. So that would be -- this is February 20th of 2020.
5 We're talking about the next day. So it's February 21st of
6 2020; is that right?

7 A. That's correct.

8 Q. Now, did you review the bank records to determine
9 whether that account was accessed or attempted access
10 remotely?

11 A. Yes. So I reviewed the logs from our online banking
12 platform.

13 Q. So we're looking to see whether there was an attempt to
14 access the James Seegan bank account at your bank on
15 February 21st of 2020, and that's what you looked for in
16 your logs?

17 A. That's correct.

18 Q. Could you tell, based on the bank logs, whether anyone
19 had attempted to access James Seegan's bank account on
20 February 21st of 2020?

21 A. Yes.

22 Q. And we're talking about a first attempted access; is
23 that right?

24 A. That's correct.

25 Q. Because there's more than one event?

1 A. There is -- there are. There were several on that day.

2 Q. Can you describe for the jury the first attempted
3 access that you saw to James Seegan's bank account on that
4 day?

5 A. Sure.

6 So on, you know, February 21st, 2020, the first
7 log-in attempt was 7:00 in the morning, 7:11 specifically
8 at 30 seconds.

9 Q. You said 7:11:30 there is an attempted log-in?

10 A. Correct. And this was very short. It was a 6-second
11 log-in.

12 Q. Okay. Then what happens next?

13 A. So the system logs start at 7:11:30, and then the user
14 was prompted for what's called a TAC. It's a temporary
15 access code. Essentially, it's something that you would
16 get over your phone. It's a -- this is like a couple
17 digits, and then you would enter it back in. It's a
18 multifactor authentication.

19 And at 34 seconds -- no, it started at 30.

20 At 34 seconds it was prompted. It displayed the
21 different targets for that TAC. So that would be different
22 cell phones, like where do you want it to send, where do
23 you want to send it to. And then the session ended 2
24 seconds later.

25 Q. So just one short session; and it was at 7:11:30 a.m.,

1 in the morning?

2 A. Correct. It ended at 7:11:36.

3 Q. And was that session successful?

4 A. It was not.

5 Q. Okay. Why do you say that session wasn't successful?

6 A. Because there was never -- when it asked for the
7 temporary access code, when it asked where to send it to,
8 it was never entered. And then as soon as it displayed the
9 message saying, hey, which cell phones do you want to send
10 it to, the session ended.

11 Q. Okay. So it didn't go through.

12 A. No.

13 Q. Nothing came back, and the session just ended?

14 A. Correct.

15 Q. So were you able to tell, based on the system, what the
16 IP address was where this first attempt to access James
17 Seegan's bank account was made at 7:11 a.m.

18 A. Yes. That's part of the logs.

19 Q. And can you tell us what the IP address was?

20 A. Sure. It's 47.186.106.152.

21 Q. And so is it fair to say that that was a failed
22 attempt?

23 A. That's correct.

24 Q. Now, you said that that wasn't the only time that the
25 account was accessed on the same day, February 21st of

1 2020; is that right?

2 A. Uh-huh.

3 Q. So after this one at 7:11 a.m., what happened?

4 A. So the next log-in happened at 8:42:23 (*sic*). And this
5 time it was not prompted for a temporary access code and
6 access was granted and the session -- it was actually in
7 the account.

8 Q. Okay. You said it was actually in the account?

9 A. Yes. There had -- it was -- the user had access to the
10 account at that point.

11 Q. So the first time, they couldn't get access?

12 A. Right.

13 Q. But this time -- and this is at 8:44:23?

14 A. Correct.

15 Q. This time, they are able to get into James Seegan's
16 account?

17 A. Correct.

18 Q. How long is this session?

19 A. Approximately 8 minutes.

20 Q. And can you tell us what happened in this session?

21 A. Sure.

22 There were several -- the user went through and
23 poked around, looked at secure messages --

24 Q. Okay. I'm sorry. Will you say that again? What
25 happened?

1 A. The user was -- I could tell that they were looking
2 through different aspects of the account, just clicking
3 through the profile. But specifically there was a wire
4 form submitted for a transaction form.

5 Q. When you say a "wire form," what do you mean by that?

6 A. So in banking when you want to send a wire, you would
7 have to fill out a form and give all the information, you
8 know, where you're going to send it to, how much you want
9 to send, a couple pieces of information.

10 That -- there was a form that was filled out and
11 submitted. That was submitted at 8:51:30.

12 Q. Okay. So the access is at 8:44. It's successful.

13 Then you can see the user looking around in the account,
14 and then you see that they've filled out a wire form?

15 A. Correct.

16 Q. And then what happens?

17 A. So they filled it out and clicked "submit," and at that
18 point the wire form was submitted through the online
19 banking platform. And that's when it moves into the next
20 system down the line called pay+. And I have -- I -- I
21 don't know if you want to go into pay+ at this point, but I
22 can tell the transaction that they filled in the form. I
23 can see that transaction in pay+, which is the next step in
24 actually transmitting the wire.

25 Q. Okay. So before we go to that, let me ask if you could

1 tell the IP address on this second -- the first time, it
2 was an attempt. The second time, something actually
3 happens; is that right?

4 A. That's correct.

5 Q. And were you able to see the IP address the second
6 time?

7 A. Yes. Its IP address was 24.243.84.26.

8 Q. And this second time, was it from 8:44 to 8:52?

9 A. Correct.

10 Q. And then you said that they filled out a wire form and
11 submitted it, and you were getting ready to tell us what
12 happened next.

13 A. So the way a wire is actually sent through the system,
14 it starts off -- it's initiated by the user through BankNow
15 or through BankDirect; and after they fill it out and it's
16 submitted, it flows downstream to a system called pay+.
17 And that's really where it's processed.

18 It will go through good funds check. It will go
19 through --

20 Q. What's good funds check? What does that mean?

21 A. To make sure they have enough money to actually send
22 the wire.

23 And from there it will actually flow through the
24 Fed, which is where it's paid. And I can see from the logs
25 in pay+ that this wire did successfully make it to the Fed,

1 it was paid, because the Fed gives us -- it's an
2 acknowledgment number. And so just like a receipt from the
3 Fed, that says, yes, it actually trans- -- it got paid.

4 Q. So can you tell us when it was, what time it was when
5 this wire was paid?

6 A. Sure. It was at 8:52:34.

7 Q. So the successful entry into the account was at 8:44
8 originally?

9 A. Correct.

10 Q. And then there is the peek-through and then the form
11 filled out, and then the form goes through the system.
12 It's approved. The funds are there.

13 And then very quickly, really -- how long from the
14 access until the funds being available? How much time
15 passes?

16 A. So like I said, they logged in at 8:44:23. Wire form
17 was submitted at 8:51:30. And then I saw the wire being
18 acknowledged from the Fed at 8:52, so about a minute later.

19 Q. Okay. So let's focus on these two transactions and
20 make sure that we have the IP address down.

21 Okay. So we've switched over the system here.
22 Now, you talked about the first attempt. So I'm going to
23 say the date is February -- 2-21-20 and this is James
24 Seegan's account --

25 THE COURT: Ms. Rattan, that's not showing up for

1 us.

2 MS. RATTAN: Oh.

3 THE COURT: Maybe it's too high. We can see your
4 hand doing it, but I just --

5 MS. RATTAN: Maybe Ms. Adams can -- I'm not sure
6 what I'm doing, zooming.

7 Thank you.

8 BY MS. RATTAN:

9 Q. So it's 2-21-20, and it's the James Seegan account; is
10 that right?

11 A. Yes.

12 Q. And so the first thing that happens that day in the
13 account is an attempt to access it, right?

14 A. Correct.

15 Q. And that attempt was very short, and I think you said
16 it was at 7:11 a.m.?

17 A. 7:11:30.

18 Q. And it was just seconds long?

19 A. 6 seconds. 7:11:36.

20 Q. And the IP address where that attempt was made was
21 what?

22 A. 47.186 --

23 Q. 47.186 --

24 A. -- .106 --

25 Q. 106.

1 A. -- .152.

2 Q. .152.

3 Okay. And this was the unsuccessful one.

4 And then the next time, this one went through.

5 And what time was it?

6 A. It started at 8:44:23.

7 Q. 8:44:23 a.m.

8 And this was the longer one.

9 A. 8:52:06.

10 Q. Through 8:52:06?

11 A. Yep, 06.

12 Q. And then what was the IP address where this happened?

13 A. 24.243.84.26.

14 Q. 24.243.84.26?

15 A. Correct.

16 Q. And that's the IP address where this second one
17 happened.

18 So then the form is filled out, and it's
19 submitted. The bank verifies that the money is available.
20 And then what happens?

21 A. So at that point it flows into pay+, which is our wire
22 platform. And I have a confirmation from the Fed at a time
23 stamp of 8:52:34 that I can see that the wire was submitted
24 to the Fed. The Fed gave us an acknowledgment back. It's
25 a really long number, but it's an acknowledgment.

1 Q. Okay.

2 A. And that means it passed, all the funds were
3 transferred so --

4 Q. And we haven't talked yet about the amount of the
5 funds. How much was transferred?

6 A. It was \$20,000.

7 Q. Now, is this \$20,000 going out of James Seegan's
8 account or into James Seegan's account?

9 A. It was going out.

10 Q. So someone has attempted to access James Seegan's
11 account. And then they accessed the account. And then
12 they fill out the form for the wire; and \$20,000 goes out
13 of his account?

14 A. That's correct.

15 Q. When did the \$20,000 go out?

16 A. Well, it would have been -- we got the acknowledgment
17 from the Fed at Number 3, so 8:52:34 would be when the
18 funds were -- it was acknowledged from the Fed that it had
19 been transferred.

20 Q. \$20,000.

21 So we know that your bank has James Seegan's bank
22 account. Can you tell us where this money went?

23 A. So the form that was filled out, both from the logs --
24 I can tell what he filled in from the logs in our banking
25 platform, BankDirect, and in pay+. The -- let's see,

1 the -- we've got the Fed. The amount was 20,000. I have
2 the "from" account number.

3 Q. That's your account number?

4 A. Well, that's James Seegan's account number, but yes.

5 Q. Right. Your bank's account number. Sorry.

6 Okay. So you have where it went from?

7 A. And then I have the beneficiary as KBKK; the
8 beneficiary bank, Branch Banking and Trust Company.

9 And then I have the "to" account, so the account
10 that it's being transferred to.

11 Q. So the \$20,000 at 8:52:34 goes to -- you said KBKK?

12 A. Correct. That's the beneficiary.

13 Q. Okay. I'm going to mark that out so we have it exact.
14 KBKK gets the money.

15 And then what's KBKK's bank?

16 A. The beneficiary bank is called Branch Banking and Trust
17 Company.

18 Q. Okay. And it's fair to shorten that as BB&T?

19 A. That's correct.

20 MS. RATTAN: I'll pass the witness, your Honor.

21 THE COURT: Cross-examination?

22 CROSS-EXAMINATION OF ARTHUR HILSON

23 BY MR. SANDEL:

24 Q. Good afternoon, Mr. Hilson. How are you?

25 A. I'm doing well.

1 Q. Just have a couple follow-up questions for you about
2 some of the things you spoke with Ms. Rattan about, okay?

3 I want to start by looking at that first event
4 that the logs show, okay, the one at 7:11, okay?

5 A. Okay.

6 Q. Now, my understanding is the account was -- somebody
7 started to access the account, correct? And then a message
8 screen popped up that said where would you like us to send
9 this authentication code, fair?

10 A. It's multifactor, yes.

11 Q. Okay. And at that point the Internet window was closed
12 or something happened because they never selected "send it
13 here." True?

14 A. That's true.

15 Q. So on that event, that's as far as -- whoever that was,
16 that's as far as they ever got, correct?

17 A. Yes.

18 Q. And that's why you said that event lasted about
19 6 seconds.

20 A. (Moving head up and down.)

21 Q. Now, moving forward to the second event, okay, this is
22 the one that was, I believe, at 8:44, correct?

23 A. Correct, 23.

24 Q. Now, this is the one where the account was actually
25 accessed, right?

1 A. Correct.

2 Q. Now, what I couldn't tell and I wanted you to clarify
3 for me, on this second event was a message -- that
4 multifactor authentication message ever generated?

5 A. Not that I could tell from the logs.

6 Q. Okay. So on this second event, there was never a need
7 to put in a code or anything like that, correct?

8 A. Not from -- not -- after examining the logs, I didn't
9 see that.

10 Q. And so, of course -- and we just talked about that
11 first event. Even though the system asked where do you
12 want to send a code, a code was never generated, right?

13 A. No.

14 Q. Okay. So now we are at this second event where the
15 person has logged in, okay?

16 And you said a form was created; is that right?

17 A. It was submitted, yes.

18 Q. Submitted.

19 And that was a form requesting a wire transfer,
20 correct?

21 A. Filling out the information for a wire transfer, so
22 yes.

23 Q. And am I correct in assuming that if the user had not
24 submitted that form, the wire would never have been
25 initiated, right?

1 A. That's correct.

2 Q. So the act that put into motion sending this money was
3 the filling out of that wire form, correct?

4 A. Correct.

5 Q. And that happened during that second event, you said?

6 A. Yes, at --

7 Q. And if you could, just re-read to me what the IP
8 address was of that second event.

9 A. The second event was 24.243.84.26.

10 Q. Thank you.

11 MR. SANDEL: And if we could please look at
12 Government's Exhibit 10, page 2.

13 If you could zoom in there.

14 BY MR. SANDEL:

15 Q. Mr. Hilson, do you see this number here at the top?

16 A. Yes.

17 Q. Does that number appear to match?

18 A. Yes.

19 Q. So this number on Government's Exhibit 10, this IP
20 address seems to be the same IP address where this second
21 event occurred, correct?

22 A. From the logs, yes.

23 MR. SANDEL: Thank you, your Honor. I'll pass the
24 witness.

25 THE COURT: Additional questions?

1 MS. RATTAN: No, thank you, your Honor.

2 THE COURT: Can this witness be fully excused?

3 MR. SANDEL: Yes, your Honor.

4 MS. RATTAN: Yes, please.

5 THE COURT: Sir, you are free to leave. Thank
6 you.

7 THE WITNESS: Yes, sir.

8 THE COURT: What's next?

9 MS. RATTAN: The United States calls Special Agent
10 Jason Rennie.

11 THE COURT: Agent Rennie, you understand you're
12 still under oath?

13 THE WITNESS: I do, your Honor.

14 THE COURT: Go ahead.

15 MS. RATTAN: Thank you, your Honor.

16 DIRECT EXAMINATION OF JASON RENNIE

17 CALLED ON BEHALF OF THE GOVERNMENT

18 BY MS. RATTAN:

19 Q. Please state your name.

20 A. Jason Rennie.

21 Q. And, of course, you're the lead FBI agent on the case;
22 is that right?

23 A. I am.

24 Q. Were you in the courtroom when Arthur Hilson just
25 testified about the two events related to James Seegan's

1 account on February 21st of 2020?

2 A. I was.

3 Q. And you also have reviewed the records and evaluated
4 that event and what happened, or those events and what
5 happened?

6 A. I did.

7 Q. So let me direct your attention first to the attempt
8 that happened at 7:11:30 a.m., the 6-second event, if I can
9 zoom it correctly this time.

10 So this is the first event, the attempt, right
11 here.

12 A. Correct.

13 Q. Have you reviewed the records to determine where this
14 IP address is where the first attempt that day was made to
15 access James Seegan's account?

16 A. I have.

17 Q. Now, of course, we all know this is February 21st of
18 2020 and Mr. Seegan died on February 19th of 2020; is that
19 right?

20 A. Correct.

21 Q. And then this is early morning, about a day after he's
22 died; is that right?

23 A. Correct.

24 Q. So you looked at the IP address, this one,
25 47.186.106.152, to determine where this happened?

1 A. I did.

2 Q. And did you use records -- phone records, IP address
3 records to determine that?

4 A. I did.

5 Q. Let me direct your attention to Government's
6 Exhibit 25, page 2.

7 And can you explain what this is?

8 A. Sure. It's a Frontier Communications. It's
9 essentially a subscriber record that was received pursuant
10 to a subpoena from Frontier essentially giving the
11 subscriber for a certain IP address during a certain date
12 range.

13 Q. And it's Frontier Communications, and this is the IP
14 address right here; is that right?

15 A. That's correct.

16 Q. And it also has the customer's name and the account
17 address; is that right?

18 A. It does.

19 Q. And who does it say the customer is for this account?

20 A. Sure. During the time frame between May 31st, 2019,
21 and April 12th of 2020, the subscriber for IP address
22 47.186.106.152 is Keith Ashley; and the account address is
23 1211 Boerne Court, Allen, Texas, 75002.

24 Q. So that's Keith Ashley, and this is the IP address?

25 A. Correct.

1 Q. Now, it has a start and end session. What is this?

2 A. That's the date -- typically when you request a
3 subpoena, this -- you're trying to determine when
4 somebody -- if you have an IP address that's on an email,
5 while the email is dated May the 2nd, then you want to
6 know -- maybe this is crucial in your case -- May the 2nd.

7 You just don't want to know who owns the IP
8 address in February. You want to know when that email was
9 sent who owns it at that date and time. So typically on
10 these subpoenas, you'll request a range that includes the
11 evidentiary date and time that you're interested in.

12 And so, therefore, this session start session end
13 includes the date of the transfer which, as we just saw and
14 mentioned, was February 21st of 2020.

15 Q. Okay. So you wanted to know the length of service on
16 the account, but you also wanted to make sure when you made
17 your inquiry that it encompassed the time period that you
18 were focusing on of February 21st of 2019 (*sic*)?

19 A. Correct.

20 Q. I mean, rather, 2020.

21 A. 2020, correct.

22 Q. Yeah, sorry.

23 So, when you evaluated this IP address and you
24 compared it against the IP address that attempted to access
25 the James Seegan account on February 21st of 2020, what did

1 you conclude?

2 A. They're identical.

3 Q. So if you could tell me, looking at this Frontier
4 Communications with Keith Ashley's account and the IP
5 address that's on here, right here, if you could tell me
6 what that is.

7 We'll switch back to the document cam.

8 And if you could tell me on Government's
9 Exhibit 25, page 2, what the IP address is on that.

10 A. The IP address contained on page 2 of the Government's
11 Exhibit 25 is 47.186.106.152.

12 Q. Dot 152.

13 And so based on this, what conclusion did you
14 reach?

15 A. The attempt to access Mr. Seegan's Texas Capital Bank
16 account on 2-21-20 was accessed from the IP address
17 47.186.106.152, which is an IP address that is controlled
18 and subscribed to by Keith Ashley of Allen, Texas.

19 Q. And that, of course, is in the Eastern District of
20 Texas?

21 A. Yes, it is.

22 Q. And that is from Government's Exhibit 25, page 2?

23 A. Correct.

24 Q. Now, did you also determine what happened on this
25 second event here, which is the same date? And then here

1 we are at 8:44:23 through 8:52:06.

2 Did you evaluate this IP address?

3 A. I did.

4 Q. And let me direct your attention to Government's
5 Exhibit 10, page 2.

6 And we just saw this displayed by defense counsel.
7 Can you explain to us what this is?

8 A. Yes. It is a subscriber record for Charter
9 Communications -- I think they became Spectrum
10 Communications -- for a subscriber record for IP address
11 24.243.84.26 during the time frame of 2-21 of '20. The
12 range of this IP which is subscribed to is July 26th of
13 2019 through August 27th of 2020.

14 Q. Okay. So let's do the same thing and look at that
15 second IP address; and now you're looking at the phone
16 record, which is Government's Exhibit 10, page 2. And this
17 is the IP address on the time when the money actually was
18 transferred; is that right?

19 A. Yes. The successful attempt of \$20,000 was done
20 between 8:44 and 8:52.

21 Q. And what was the IP address on that one?

22 A. The IP address is 24.243.84.26.

23 Q. 84.26.

24 So the location on the attempt is Ashley; and then
25 the location when the \$20,000 goes through, that's at the

1 Seegan house?

2 A. Right. The subscriber is Sakdida Seegan, 2114 Cannes
3 Drive.

4 Q. Now let's focus on the actual \$20,000 transfer. Did
5 you track what was described by the bank to verify this
6 transaction?

7 A. I did.

8 Q. And did you track it from both accounts? Were you able
9 to find that \$20,000 transaction in James Seegan's account,
10 and were you able to find that transaction also in Keith
11 Ashley's account where the money went?

12 A. Yes.

13 The wire was debited from Mr. Seegan's Texas
14 Capital Bank account, and it was credited to Mr. Ashley's
15 bank account at the Branch Banking and Trust ending in
16 8725.

17 MS. RATTAN: If we can look at Government's
18 Exhibit 7A, page 36.

19 BY MS. RATTAN:

20 Q. Can you describe what this is?

21 A. It's a bank statement for Mr. Seegan's Texas Capital
22 Bank account. The statement ending date is February 29th
23 of 2020.

24 Q. And then if we can look at that middle portion and you
25 can tell us what's happening here.

1 A. Sure. As you see, the second line from the bottom,
2 2-21 of '20, there is a wire transfer out, an outgoing wire
3 transfer.

4 Based upon other evidence in the case, KBKK was
5 the recipient, which it appears Texas Capital Bank puts
6 that on their bank statements.

7 And the amount of the outgoing debited wire
8 transfer was \$20,000.

9 And the next line, there is a fee associated, as
10 we all know with wire transfers if you send a wire
11 transfer. So the fee which would be withheld by the bank
12 was \$35 in this case.

13 Q. And so you were able to track the \$20,000 transfer; and
14 it's in James Seegan's banking records showing that it went
15 to KBKK?

16 A. That's correct.

17 Q. And did you also look at KBKK's bank account which, as
18 we know, is the Branch Banking and Trust, BB&T?

19 A. I did.

20 Q. So let me direct your attention to Government's
21 Exhibit 8A, page 128. And can you tell us what we're
22 seeing here?

23 A. Sure. This is the February of 2020 bank statement, or
24 a page of the bank statement, for KBKK, LLC, of Allen,
25 Texas, with account number ending in 8725.

1 Q. And describe what's happening.

2 A. Yes. If you see the last line there, 2-21 of '20, it
3 denotes an incoming wire transfer with a wire reference
4 number in the amount of \$20,000.

5 MS. RATTAN: And if we can also look at
6 Government's Exhibit 8A, page 761.

7 BY MS. RATTAN:

8 Q. Can you describe what this is?

9 A. Sure. This is essentially a wire transfer receipt, for
10 lack of a better term. It's not a full wire transfer
11 manifest. But it corresponds to that \$20,000 credit that
12 we just saw.

13 So it's a transaction date 2-21 of '20. Amount,
14 \$20,000. The beneficiary account is the account for which
15 this record was pulled from, KBKK, LLC. The originator was
16 James Seegan. Originating bank, Texas Capital Bank NA; and
17 the account number -- the entire account number is not
18 redacted. The ending account of the recipient, beneficiary
19 bank is -- ends in 8725.

20 Q. Okay. So, again, it's February 21st of 2020. There's
21 \$20,000. And it's going from James Seegan's account to
22 KBKK?

23 A. That's correct.

24 Q. And, again, who is KBKK?

25 A. KBKK is owned and controlled by Keith Ashley, the

1 defendant.

2 Q. Now let me direct your attention to Government's
3 Exhibit 114 and ask you if you've reviewed Government's
4 Exhibit 114.

5 A. I have.

6 Q. And will you explain what Government's Exhibit 114 is.

7 Oh, pardon me. I gave you the wrong exhibit
8 number. It's 104.

9 A. Thank you.

10 Yes, I previously reviewed it.

11 MS. RATTAN: Your Honor, may we publish
12 Government's Exhibit 104?

13 THE COURT: Yes, you may.

14 BY MS. RATTAN:

15 Q. Okay. And, Agent Rennie, would you explain to us what
16 this is?

17 A. Sure. Essentially, this details the use of the funds
18 that are -- that were received into the KBKK, LLC, account
19 on 2-21, the \$20,000 that was received from Mr. Seegan's
20 Texas Capital Bank account.

21 This individual format just kind of explains, as
22 the jury has seen before, how the money is utilized.

23 Q. Okay. So the question is Keith Ashley took James
24 Seegan's money and what did he do with it. Is that --

25 A. Exactly.

1 Q. -- what you're trying to answer?

2 A. Yes.

3 Q. And following the same format and analysis as we've
4 seen with Matt Wylie before, did you look at the account
5 balance, the KBKK BB&T account balance when the \$20,000
6 came in?

7 A. We did.

8 Q. And what was it?

9 A. Approximately \$1,500.

10 Q. So you've got the James Seegan \$20,000 and it comes in
11 on February 21st of 2020 and it's evaluated through
12 March 4th of 2020.

13 And, again, why those dates?

14 A. That was the amount of time that it took for the
15 \$20,000 that came into the account to be depleted.

16 Q. So we look down here, and we see Denny Willmon is paid
17 and Leonid Shteyngart is paid. What's going on here?

18 A. Sure. As the other -- as previous testimony would
19 show, these are payments for investments that purported
20 that Mr. Willmon and Mr. Shteyngart believed that they had
21 invested with Keith Ashley; and these were their expected
22 returns.

23 Q. So going back to the Ponzi scheme --

24 A. Correct.

25 Q. -- would what we see here with the \$20,000 be

1 consistent with what the Ponzi scheme had established
2 previously?

3 A. Yes.

4 Q. Now, if Mr. Seegan hadn't died, would the defendant,
5 Keith Ashley, have continued to owe him these Ponzi scheme
6 payments monthly coming out of Keith Ashley's account?

7 A. He would have.

8 Q. So when Mr. Seegan died, did that, in and of itself,
9 immediately benefit the defendant, Keith Ashley?

10 MR. WHALEN: Objection, calls for speculation.

11 THE COURT: Just rephrase the question.

12 BY MS. RATTAN:

13 Q. Based on the financial analysis that has been done in
14 this case, was there a Ponzi scheme taking place?

15 A. There was.

16 Q. And monthly was the defendant, Keith Ashley, paying the
17 victims of the Ponzi scheme out of his account?

18 A. He was.

19 Q. And is that, in and of itself, a sign of a Ponzi
20 scheme?

21 A. It is.

22 Q. So when Mr. Seegan died, did it mean that Keith Ashley
23 would no longer have to pay him the Ponzi scheme money?

24 MR. WHALEN: Objection, calls for speculation.

25 THE COURT: Overruled.

1 A. That's correct. With the death of Mr. Seegan, his
2 financial -- his monthly financial obligation went away;
3 and the money that Mr. Seegan had given to Mr. Ashley for
4 the purported investment, which the evidence showed has
5 been -- was spent on things other than investments, would
6 never have to be repaid.

7 BY MS. RATTAN:

8 Q. Okay. So part of the \$20,000 goes to the Ponzi scheme
9 victims Denny Willmon and Leonid Shteyngart. Can you walk
10 us through what happened to the rest of James Seegan's
11 \$20,000?

12 A. Sure. As you're looking at the chart, to the left
13 \$5,000 went to a personal account at Bank of America, which
14 a thousand of that went on to a personal account also at
15 Bank of America, which 900 was returned. A portion of that
16 was used on retail and restaurants.

17 And if you travel down the left side of the chart,
18 almost -- you know, \$1,549 went to a third personal
19 account, which it looks like a good portion of that was
20 used on tuition. 2,300-plus dollars was used on credit
21 cards.

22 And then on the right side, \$10,000 of the money
23 that was stolen from Mr. Seegan --

24 MR. WHALEN: Objection to the characterization it
25 was stolen.

1 THE COURT: Sustained. Just --

2 BY MS. RATTAN:

3 Q. What happened to the \$10,000?

4 A. \$10,000 was moved to Mr. Ashley's North Texas Money
5 Management account at Chase.

6 7,500 of that was moved to a KBLS1996 account
7 that's controlled by Mr. Ashley.

8 2,400 was moved to Nine Band Brewery.

9 And then of the 7,500, it looks like that 7,500
10 was divided into a personal account at American National
11 Bank & Trust and 6,400 was moved to KBKK, LLC, which was
12 then moved also to Nine Band Brewery.

13 So the right side is essentially business
14 expenses. The left side is essentially personal expenses.
15 And the middle is Ponzi payments.

16 Q. And a cash withdrawal here of \$1,500?

17 A. Correct.

18 Q. So you've got business, personal, Ponzi, and cash.

19 A. Correct.

20 Q. Did it appear, as you reviewed what happened to the
21 \$20,000, that any of this \$20,000 went to the benefit of
22 James Seegan's family?

23 A. It did not.

24 MS. RATTAN: I'll pass the witness.

25 THE COURT: Cross-examination?

1 MR. WHALEN: No questions, your Honor.

2 THE COURT: Okay. You may step down, Agent.
3 Thank you.

4 THE WITNESS: Thank you, your Honor.

5 MS. RATTAN: Your Honor, may I offer this as an
6 exhibit? I'll just offer it as the next consecutive
7 exhibit number.

8 THE COURT: That would be what number?

9 MS. RATTAN: 133.

10 THE COURT: Any objection?

11 MR. WHALEN: Your Honor, I'd object. It's an
12 improper -- it's a summary, which would be a demonstrative,
13 not an exhibit.

14 THE COURT: Ms. Rattan?

15 MS. RATTAN: I don't think it's a summary. I
16 think it explains complicated testimony.

17 THE COURT: Objection overruled. It will be
18 admitted.

19 MS. RATTAN: And then when I said I'll offer
20 "this," I don't think I was clear for the record. I'll
21 offer a document that was created during two witnesses'
22 testimony. The witnesses were Arthur Hilson and Special
23 Agent Jason Rennie.

24 The document reflects the attempted access to
25 James Seegan's account and a then-consummated \$20,000

1 transaction and it includes the IP addresses. And I've
2 marked it, offered it, and the Court has admitted it as
3 Government's Exhibit 133.

4 THE COURT: Okay. Thank you.

5 What's next?

6 MS. RATTAN: Pardon me?

7 THE COURT: What's next?

8 MS. RATTAN: Oh, may we approach, your Honor?

9 THE COURT: Yes.

10 (Sidebar conference, off the record.)

11 THE COURT: Okay. So, ladies and gentlemen, we're
12 going to stop just a little bit early. We're still on
13 track so -- so, again, please don't discuss the case among
14 yourself or anyone else. Please don't do any outside
15 research.

16 Have you finished the coffee cake?

17 A JUROR: Yes.

18 THE COURT: Okay. I'll see what I can do. I'm
19 not going to promise anything. I'm going to the Baylor
20 game this weekend so I don't know what I'll have a chance
21 to bake on Sunday, but I'll see what I can do. No
22 promises, but I'll try.

23 But have a safe weekend. Have a safe drive home.
24 We'll see you Monday. And we'll start back at 9:00, so
25 just be here right before 9:00 on Monday. Have a good

1 weekend.

2 (The jury exits the courtroom, 4:35 p.m.)

3 THE COURT: So what I will do is I will go ahead
4 and have my lawyer send you a PDF of the proposed charge
5 and verdict here before we leave today. If you have any
6 major issues, just please email him back over the weekend
7 so that we can look at those just to make things smoother
8 on Monday.

9 The other thing is I think Ms. Conrad is going to
10 have y'all maybe start looking at the exhibits and also if
11 you'll come and look at the redacted Indictment -- because
12 I send it back to the jury -- so you can sign off on that.

13 Anything else from the government?

14 MS. RATTAN: No, your Honor.

15 THE COURT: Anything else from defense?

16 MR. WHALEN: Your Honor, once again I'm going to
17 object to the board being up continuously. I mean, the
18 jury is just staring at it the entire time and it's a
19 demonstrative that normally would not be up in front of the
20 jury on a regular basis and it's been -- it's prejudicial.
21 And so we would object that it's been up and continues to
22 be up.

23 And so we would ask that the government continue
24 to pull it down when -- only have it up whenever they are
25 using it versus keeping it up during the time of their

1 entire presentation.

2 MS. RATTAN: May I be heard?

3 THE COURT: Yes.

4 MS. RATTAN: Your Honor, may the record reflect
5 that Mr. Combs has continuously and conscientiously turned
6 the board when we've passed the witness and that's how it's
7 been handled. So we're aware of the defense's request, and
8 we're trying to accommodate it. We think it's appropriate
9 to display the board when the government's presenting
10 witnesses.

11 THE COURT: Well, and I agree with the government.
12 Mr. Whalen, Mr. Combs has been flipping it when you do
13 cross-examination. They just finished a witness that you
14 didn't cross-examine so --

15 And the other thing is, too, I don't believe your
16 characterization that the jury is focused on that because
17 it's behind them. The witness is here, so they are not --
18 I mean, I can see them. They are not staring at the board
19 when they are watching the witnesses, so I don't
20 necessarily agree with your characterization.

21 But I don't know -- there is nothing for me to
22 instruct them because Mr. Combs has done exactly what
23 you've asked.

24 MR. WHALEN: No, but I think also later this
25 afternoon -- I don't -- when Mr. Sandel has been up, I

1 think it has remained up.

2 THE COURT: Well, again, I noticed he's been doing
3 it. So certainly if we -- if it got missed, all you had to
4 do was ask and it would have been flipped.

5 But, again, I don't -- they are going to offer
6 that as a -- they are going to offer that as an exhibit, I
7 know, when this is over. And the Court is going to allow
8 that, so the jury is going to have it back as one of their
9 exhibits.

10 MR. WHALEN: Well, and we -- I mean, I -- okay.
11 We'll object when the time comes.

12 THE COURT: Oh, I know. I understand.

13 MR. WHALEN: Right.

14 THE COURT: Well, just considering their past
15 behavior in other trials, I know that's coming.

16 MR. WHALEN: Right. I understand.

17 THE COURT: Okay. Anything else, Mr. Whalen?

18 MR. WHALEN: No, not that I can think of.

19 THE COURT: Okay. Very good. Well, I'll see
20 y'all Monday at 9:00 a.m. Thank you.

21 (Proceedings adjourned, 4:39 p.m.)

22 COURT REPORTER'S CERTIFICATION

23 I HEREBY CERTIFY THAT ON THIS DATE, OCTOBER 31,
24 2022, THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD
OF PROCEEDINGS.

25 /s/
CHRISTINA L. BICKHAM, CRR, RDR